TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~1870~~ 194 -

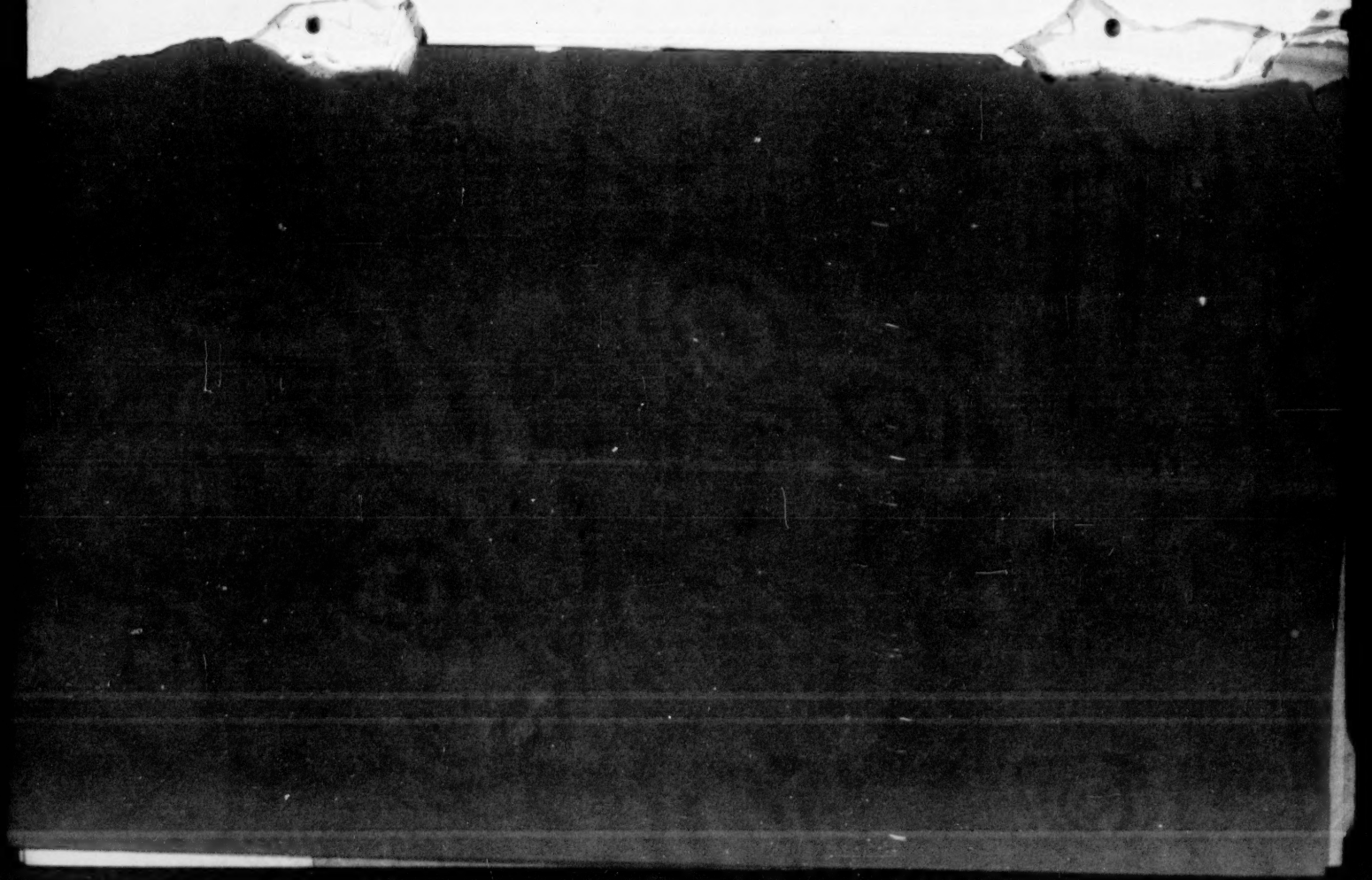
JOHN GREER, AND MARIA LOUISA GREER, HIS WIFE, MANUELA COPPINGER, JAMES MORRISON, JOSEPH R. CROCKETT, ALEXANDER P. CRITTENDEN, AND DENNIS MARTIN, PLAINTIFFS IN ERROR,

vs.

SOLEDAD ORTEGA DE ARGUELLO, JOSE RAMON ARGUELLO, AND S. M. MEZES.

IN ERROR TO THE SUPREME COURT OF THE STATE OF CALIFORNIA.

FILED JANUARY 17, 1870.



SUPREME COURT OF THE UNITED STATES.

No. 420.

JOHN GREER, AND MARIA LOUISA GREER, HIS WIFE, MANUELA COPPINGER, JAMES MORRISON, JOSEPH B. CROCKETT, ALEXANDER P. CRITTENDEN, AND DENNIS MARTIN, PLAINTIFFS IN ERROR,

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IN ERROR TO THE SUPREME COURT OF THE STATE OF CALIFORNIA.

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1 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the justices of the supreme court of the State of California, greeting:

Because in the record and proceedings, and also in the rendition of the judgment of a plea which is in the said supreme court of the State of California, before you, between Soledad Ortega de Argüello, José Ramon Argüello, and S. M. Mezes, and John Greer, Maria Louisa Greer, (wife of said John Greer,) Manuela Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Dennis Martin, a manifest error hath happened to the great damage of the said John Greer, Maria Louisa Greer, (wife of said John Greer,) Manuela Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Den-
2 nis Martin, as by their complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be there and then held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States should be done.

Witness the Honorable Salmon P. Chase, Chief Justice of the
3 said Supreme Court of the United States, this 2nd day of April, A. D. 1869, and of the independence of the United States the ninety-fourth.

Witness my hand and seal of court this 25th day of August, A. D. 1869.

[SEAL.] GEO. E. WHITNEY,
Clerk of the U. S. Circuit Court, District of California.

4 (Indorsed:) U. S. Supreme Court. John Greer and others, pl'ffs in error, vs. Soledad Ortega Argüello and others, def'ts in error. Writ of error. Delos Lake, att'y for pl'ff in error.

Filed Oct. 1st, 1869.

GEO. SECKEL.

5 Supreme court of the State of California.

JOHN GREER, MARIA LOUISA GREER, (WIFE OF said John Greer,) Manuela Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Dennis Martin, plaintiffs in error,

vs.

SOLEDAD ORTEGA DE ARGÜELLO, JOSÉ RAmon Arguello, and S. M. Mezes, defendants in error.

Know all men by these presents that we, J. B. Crockett, J. Naphtaly, and S. O. Alexander, of the city and county of San Francisco, are held and firmly bound unto Soledad Ortega de Argüello, José Ramon

Argüello, and S. M. Mezes in the sum of five hundred dollars, to be paid to the said Soledad Ortega de Argüello, José Ramon Argüello, and S. M. Mezes, their executors, administrators, and assigns; to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated this 25th day of August, A. D. 1869.

Whereas the above-named John Greer, Maria Louisa Greer, Manuela Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Dennis Martin have prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled suit by the supreme court of the State of California:

Now, therefore, the condition of this obligation is such, that if the above-named John Greer, Maria Louisa Greer, Manuela Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Dennis Martin shall prosecute the said writ of error to effect, and answer all damages and costs if the said John Greer, Maria Louisa Greer, Manuela Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Dennis Martin shall fail to make good their said plea, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

J. B. CROCKETT. [SEAL.]
J. NAPHTALY. [SEAL.]
S. O. ALEXANDER. [SEAL.]

Sealed and delivered in presence of—
PAUL NEUMANN.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

J. Naphtaly & S. O. Alexander, of said city and county, being severally duly sworn, say, and each for himself says, that he is a resident of the said city and county, and a freeholder therein; and that he is worth the sum of one thousand dollars over and above all property by him owned which by law is exempt from levy and sale on execution.

J. NAPHTALY.
S. O. ALEXANDER.

Sworn to this 11th day of August, 1869, before me.
[SEAL.] PAUL NEUMANN,
Notary Public in & for the City & County of San Francisco.

(Indorsed:) Bond.

The within bond approved and accepted this 11th day of September, A. D. 1869.

LORENZO SAWYER,
Ch. Justice Supreme Court of the State of California.

Filed Oct. 1st, 1869.

G. SECKEL, *Clerk.*

To Soledad Ortega de Argüello, José Ramon Argüello, and S. M. Mezes, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the first

Monday of December next, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of California, wherein John Greer, Maria Louisa Greer, Manuela Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Dennis Martin are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Sacramento, September 11th, 1869.

LORENZO SAWYER,
Ch. Justice of the Supreme Court of the State of California.

11 (Indorsed:) U. S. Supreme Court. John Greer and others, pl'ffs in error, vs. Soledad Ortega Argüello and others, def'ts in error. Citation.

Service of the within citation is hereby admitted. Sept. 13, 1869.

SIDNEY L. JOHNSON,
Attorney of Def'ts in error.

Filed Oct. 1st, 1869.

GEO. SECKEL, *Clerk.*

12 *Complaint.*

District court of the twelfth judicial district of the State of California, in and for the county of San Mateo.

SOLEDAD ORTEGA DE ARGUELLO, JOSE RAMON Arguello, and S. M. Mezes, plaintiffs,
vs.
JOHN GREER, MARIA LOUISA GREER, WIFE OF said John Greer, Manuela Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Dennis Martin, defendants.

The above-named plaintiffs complain of the above-named defendants, and for cause of action and complaint allege that they, the plaintiffs, are the lawful owners in fee-simple and are in possession of all that tract of land situated in said county of San Mateo, and forming part of the tract of land known as the Rancho de las Pulgas, or Pulgas Rancho, as the same has been surveyed and patented by the United States to the plaintiffs and to Louis Antonio Arguello, to all of whose right, title, interest, and estate therein the plaintiffs have succeeded; which patent has been duly put of record in the proper book of record, in the
13 office of the county clerk and recorder of San Mateo County, which said tract of land is bounded and described as follows, to wit: On the southwardly side thereof by the San Francisquito Creek; on the westwardly side thereof by the line which forms the boundary to the westward of the said Pulgas Rancho, as the same was patented and surveyed by the United States by the aforesaid patent; on the northwardly side thereof by the San Mateo Creek; and on the eastwardly side thereof by a line running from the San Mateo Creek, or northward boundary of said rancho, to the San Francisquito Creek, or southward boundary of said rancho, at the distance of one league westward from the esteros, or estuaries of the bay of San Francisco. The plaintiffs allege that they have a lawful and valid title in fee-simple to the premises

so bounded and described, and that they are in the lawful and peaceable possession thereof; but that the defendants pretend they have some right or title, and claim an estate or interest in and to the said tract of land, or to some part thereof, adverse to the plaintiffs, and give out in speeches that the said tract of land belongs of right to them, and that their title is paramount to the title of plaintiffs; and by means of these unfounded pretenses, and of the groundless claim of title as aforesaid, have indueed many persons to doubt the validity of the title of the plaintiffs, and have thereby impaired its value in the market, and injured the sale and disposition thereof. Wherefore the plaintiffs pray that said defendants, and each of them, be required to state in his, her, or their answer whether or not they claim any title, estate, or interest in or to said tract of land, or any part thereof, adversely to the plaintiffs; and if they, or any or either of them, shall so claim any title, estate, or interest therein, that they may exhibit and set forth the same with their said answer, so that the court may determine such adverse claim, estate, or interest, and decide upon the validity thereof. And plaintiffs further pray that upon a final hearing the said claim of the defendants, and each of them, may be adjudged and decreed to be invalid; and that the defendants, and each of them, and all persons claiming under them, or any of them, by title accruing subsequently to the commencement of this action, be forever barred from all or any title, interest, or estate in said premises, or any part thereof; and that the plaintiffs be quieted in their title and possession. And the defendants pray for such other and further relief as may be equitably due and applicable to the case.

SIDNEY L. JOHNSON,
Attorney for Plaintiffs.

14 (Indorsed:) No. 274. Twelfth district court, county of San Mateo. S. O. de Arguello, J. R. de Arguello, S. M. Mezes, vs. John Greer, Mary Louisa Greer, Manuela Coppinger, James Morrison, J. B. Crockett, A. P. Crittenden, Dennis Martin. Complaint. Filed Jan. 22d, 1862. B. G. Lathrop, clerk. S. S. Johnson, attorney of plaintiffs.

Summons.

In the district court of the twelfth judicial district in and for the county of San Mateo, State of California.

SOLEDAD ORTEGA DE ARGUELLO, JOSÉ R. DE Arguello, and S. M. Mezes, plaintiffs, *vs.* JOHN GREER, MARIA LOUISA GREER, WIFE OF said John Greer, Manuela Coppinger, James Morrison, J. B. Crockett, Alexander P. Crittenden, and Dennis Martin, defendants.	Action brought in the district court of the twelfth judicial district in and for the county of San Mateo.

The people of the State of California send greeting to John Greer, Maria Louisa Greer, wife of said John Greer, Manuela Coppinger, J. B. Crockett, A. P Crittenden, and Dennis Martin, defendants:

You are hereby required to appear in an action brought against you by the above-named plaintiffs in the district court of the 12th judicial district in and for the county of San Mateo, and to answer the complaint filed therein (a copy of which accompanies this summons) within ten days (exclusive of the day of service) after the service on you of this

summons, if served within this county; or, if served out of this county but in this district, within twenty days; otherwise, within forty days, or judgment by default will be taken against you according to the prayer of said complaint. The said action is brought to obtain a decree by which the plaintiff may be quieted as against you and all persons claiming under you subsequently to the commencement of this action, in their title to and possession of a certain tract of land situated in the county of
15 San Mateo, and particularly described in the complaint, and by which the pretended right to the estate or interest in the said premises set up and claimed by you adversely to the plaintiffs may be declared invalid, and for general relief.

And you are hereby notified that if you fail to appear and answer the said complaint as above required, the said plaintiffs will apply to the court for the relief demanded in the complaint.

Given under my hand and the seal of the district court of the 12th judicial district in and for the county of San Mateo, this 22d day of January, A. D. 1862.

[L. S.] B. G. LATHROP, *Clerk.*

OFFICE OF THE SHERIFF, *County of San Mateo, ss:*

I hereby certify that I received the within summons on the 25th day of January, 1862, and personally served the same on the 25th day of January, 1862, upon Dennis Martin, John Greer and Maria Louisa, his wife, and Manuela Coppinger, by delivering to each of said defendants, personally, in the county of San Mateo, a copy of said summons attached to a certified copy of the complaint.

Dated Redwood City, this 27th day of January, 1862.

S. H. BOWMAN, *Sheriff,*
By JOSEPH S. KEITH, *Deputy Sheriff.*

(Indorsed:) No. 274. In the district court of the 12th judicial district. S. O. de Arguello and others vs. John Greer, Maria L. Greer, and others. Summons. Filed Jan. 27th, 1852. B. G. Lathrop, clerk. Sidney L. Johnson, plaintiffs' attorney.

16 *Affidavit of service of summons.*

District court of the twelfth judicial district of the State of California, in and for the county of San Mateo.

SOLEDAD ORTEGA DE ARGUELLO, JOSÉ RAMON DE ARGUELLO, and S. M. MEZES, plaintiffs,

vs.

JOHN GREER, MARIA LOUISA GREER, WIFE of said John Greer, Manuela Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Dennis Martin, defendants.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

Edward Janin, being duly sworn, deposes and says that he is a white male citizen of the United States of America, and not interested in the result of the above-entitled action, nor in the record of any judgment that may be rendered therein, and that he is competent to be a witness

on the trial of said action; that he served the summons issued in said action, and hereto annexed, on the defendants James Morrison, Joseph B. Crockett, and Alexander P. Crittenden, in the said city and county of San Francisco, on the twenty-fifth day of January, A. D. 1862, by delivering to and leaving with each of said three last-mentioned defendants a copy of said summons attached to a certified copy of the complaint filed in said action, the said copy of the complaint being certified by the clerk of said district court, under his hand and seal of office, to be a full, true, and correct copy of the original complaint on file in his office. And deponent further says that he knows the persons so served to be the persons mentioned as defendants in said summons.

And further saith not.

EDWARD JANIN.

Subscribed and sworn to before me this 25th day of January, 1862.

[L. S.] T. J. THIBAULT, *Notary Public.*

17 *Petition for guardian ad litem for Manuela Coppinger.*

To the Hon. Alexander Campbell, judge of the district court of the twelfth judicial district of the State of California, in and for the county of San Mateo:

IN THE MATTER OF THE WRIT OF SOLIDAD Ortega de Arguello, José Ramon de Arguello, and S. M. Mezes, plaintiffs,
vs.
JOHN GREER, MARIA LOUISA GREER, WIFE of John Greer, Manuela Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Dennis Martin, defendants.

The petition of the above-named plaintiffs respectfully shows that they have filed their complaint in the above-entitled suit, in the office of the clerk of the court above named, for the purpose of determining an adverse claim of the above-named defendants, to certain real property, described in said complaint, and that they caused service of summons issued in said suit to be duly made on each of the above-named defendants, and particularly upon the defendant Manuela Coppinger, on the 25th day of January, 1862, and that the service upon the said Manuela, and also upon the defendant Maria Louisa Greer, who is the mother of the said Manuela, and upon the said John Greer, who is the husband of the said Maria Louisa Greer, was made in the county of San Mateo, where the said three last-named defendants reside; that petitioners are informed and believe that the defendant Manuela Coppinger is an infant above the age of fourteen years, and has no general guardian; that more than ten days have elapsed since the said service of summons upon the said Manuela, and that your petitioners are informed and believe that no guardian ad litem has been appointed to the said Manuela for the purpose of enabling her to appear and answer in the above-entitled suit; that the said defendants John Greer, Maria Louisa Greer, and Manuela Coppinger have appeared and filed their answer in said suit, by their attorney at law, H. L. Scofield, esq.; but that your petitioners are advised, and informed, and believe, that said ap-
18 pearance of said Manuela is irregular, and null and void, and that the petitioners have a right now to apply for the appoint-

ment of a guardian ad litem for the said Manuela for the purposes of her appearance and defense of said suit. Wherefore your petitioners pray your honor to appoint a guardian ad litem to the said Manuela Coppinger, for the purpose of enabling her to appear in the above-entitled suit by such guardian; and as in duty bound will ever pray, etc.

SIDNEY L. JOHNSON,
Attorney for Petitioners.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

Sidney L. Johnson, being duly sworn, deposes and says that he is the attorney at law of the above-named petitioners in the above-entitled action, and in this proceeding; that the above-named petitioners are all absent from the city and county of San Francisco, where affiant resides; and that the facts stated in the above petition are within the knowledge of the affiant. And affiant further says that he has read the foregoing petition and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters stated on information and belief, and that as to those matters he believes it to be true.

SIDNEY L. JOHNSON.

Sworn to before me this tenth day of February, 1862.

SAMUEL L. LUPTON,
Deputy County Clerk.

Order appointing guardian ad litem.

On reading the foregoing petition, it is hereby ordered that H. A. Scofield, esq., of Redwood City, county of San Mateo, be and is hereby appointed guardian to the defendant Manuela Coppinger, to defend the above-entitled action.

Dated February 10th, 1862.

A. CAMPBELL,
Judge Twelfth District.

(Indorsed:) Twelfth district court San Mateo County. S. O. de Arguella and others vs. John Greer, Manuela Coppinger, and others. Petition of plaintiffs for appointment of guardian ad litem for Manuela Coppinger. Order appointing H. A. Schofield guardian to Manuela Coppinger. Filed February 12th, 1862. B. G. Lathrop, clerk.

19 *Answer of Manuela Coppinger.*

In the district court of the twelfth judicial district of the State of California, in and for the county of San Mateo.

SOLEDAD ORTEGA DE ARGUELLO, JOSÉ RAMON de Arguello, S. M. Mezes, plaintiffs,
vs.
JOHN GREER AND MARIA LOUISA GREER, WIFE of said John Greer, Manuela Coppinger, James Morrison, Joseph B. Crockett, A. P. Crittenden, and Dennis Martin, defendants.

And now comes Manuela Coppinger, one of the parties named as a

defendant in the above-entitled action, by her guardian ad litem and attorney, and by leave of the court files this her separate answer:

The said Manuela Coppinger denies she claims any right, title, or interest in or to any lands which lawfully belong to said plaintiffs, or that the plaintiffs are lawfully in the possession of, or are lawfully entitled to the possession of.

The defendant, for a further and more specific answer to the plaintiffs' complaint, says that she and Louisa Maria Greer, her mother, are the joint owners in fee-simple of that certain tract of land situated in San Mateo County known as the Rancho Cañada de Raimundo, as surveyed and patented by the United States to said defendants Maria Louisa Greer and Manuela Coppinger, which patent has been duly put upon record in the office of the recorder of San Mateo County, which survey and patent of said Rancho Cañada de Raymundo describes the boundary of the same to be as follows, to wit: Bordering to the west on the Sierra Moreno; to the east on the Rancho de las Pulgas; to the south on the rancho of Maximo Martinez; and to the north on the Great Lagoon.

And the defendant further avers, and so charges the truth to be, that the Pulgas Rancho mentioned in plaintiffs' complaint, as the same was confirmed by the land commission, sitting as such in the city of San Francisco, and the district court for the northern district of California, was described as a tract of land four leagues in length and one in breath, more or less; and that the said quantity of land was recognized by the Supreme Court of the United States in its final judgment and decree of confirmation of the title of the plaintiffs to said Pulgas Rancho; and that the natural boundaries of said Pulgas Rancho are described in the decision by said Supreme Court as follows, to wit: On the south by the arroyo or creek of San Francisquito; on the north by the creek San Mateo; on the east by the esteros or waters of the bay of San Francisco; and on the west by the eastern borders of the valley known as the Cañada del Ramundo; said land being of the extent of four leagues in length and one in breadth, be the same more or less.

And this defendant says that she does not now, nor never did, claim any title, interest, or estate in or to any lands embraced within the foregoing described boundaries of the Pulgas Rancho; but that she does claim title in fee-simple to all the lands up to the said western boundary of the said las Pulgas Rancho as above described, by virtue of her said patent to the Rancho Canada de Raymundo.

Defendant further says that the survey of the western boundary of the Pulgas Rancho, as presented to the Commissioner of the General Land Office, authenticated on the nineteenth day of December, 1856, by the signature of the surveyor general of the public lands in the State of California, is fraudulent, and not in conformity with the judgment and decree of the Supreme Court as before mentioned; but that said survey embraces and includes portions of lands originally claimed by the plaintiffs herein in their petition for confirmation, and to which portion of land plaintiffs' title was adjudged and decreed to be invalid by the district court of the northern district of California, and reaffirmed by the United States Supreme Court in their decision before mentioned.

Defendant further says that, by reason of said fraudulent survey, the plaintiffs have wrongfully and unlawfully entered upon and took possession of large quanties of lands outside of the western boundaries of said Pulgas Rancho, which land lawfully and by right belongs

to this defendant, but that the plaintiffs, under said fraudulent survey or some other grounds, pretend to claim and set up some title to a large portion of said Rancho Cañada de Raymundo, and claim that the
21 same is a portion of the Pulgas Rancho, all of which said defendant denies.

Defendant, having fully answered plaintiffs' complaint and stated her defense, prays that the title of plaintiffs to any lands outside of the boudriaries of the Pulgas Rancho, as above mentioned and embraced within the boundaries of defendant's claim, be adjudged by this court to be invalid.

Defendant also asks that it be determined by the judgment of this court that the survey of the western boundary of the said Pulgas Rancho is fraudulent or incorrect, and not conforming to the natural boundaries of the quantity of land mentioned in the judgment of confirmation before mentioned, and also that defendant have judgment for her costs, and for such other and further relief as may be equitably due to defendant and applicable to the case.

H. A. SCOFIELD,
Guardian ad litem, and Attorney for Defendant Manuela Coppinger.

(Indorsed:) Twelfth district court, San Mateo County. S. O. de Arguello et als. vs. John Greer et als. Answer of Manuela Coppinger. Filed February 19th, 1862. B. G. Lathrop, clerk. H. A. Scofield, guardian ad litem, and defendant's attorney.

Replication to Manuela Coppinger.

In the district court of the twelfth judicial district of the State of California, in and for the county of San Mateo.

S. O. DE ARGUELLO, J. R. DE ARGUELLO, AND S. M. Mezes, plaintiffs,
vs.
JOHN GREER, MARIA LOUISA GREER, WIFE OF said John Greer, Manuela Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Dennis Martin, defendants.

22 And now come the plaintiffs, and for replication to the new matter set up in the separate answer of the defendant Manuel Coppinger, by her guardian ad litem, they, the plaintiffs, deny all and singular the allegation of new matter set up in said answer. And they particularly deny that the survey mentioned in the said answer, of the Pulgas Rancho, is fraudulent, and they aver that the said survey is in conformity with the decree, mentioned in said answer, of the Supreme Court of the United States; and they deny that said survey embraces any land as to which the title of plaintiffs was declared invalid by the district court of the United States for the northern district of California, or by the Supreme Court of the United States. And they deny that they have entered upon, or that they have taken possession of, any land outside of the western boundary of the Pulgas Rancho and belonging to the said defendant Manuela Coppinger.

SIDNEY L. JOHNSON,
Attorney for Plaintiffs, San Francisco.

(Indorsed:) 12th district court, San Mateo County. S. O. de Arguello et als. vs. John Greer, Manuela Coppinger, et als. Replication to the

separate answer of Manuela Coppinger. Due service of a copy hereof is admitted this 28th day of February, 1862. H. A. Scofield, guardian ad litem, and attorney for defendant. Filed Feb. 28th, 1862. B. G. Lathrop, clerk.

Answer of John Greer, his wife, and Manuela Coppinger.

In the district court of the twelfth judicial district, San Mateo County, State of California.

S. O. DE ARGUELLO, JOSÉ R. DE ARGUELLO, and S. M. Mezes, plaintiffs,
vs.
JOHN GREER, MARIA LOUISA GREER, Manuela Coppinger, et als. defendants.

Now comes John Greer, Maria Louisa Greer, his wife, and Manuela Coppinger, named as defendants in the above-entitled action, and, for separate answers to the plaintiffs' complaint filed herein, deny
23 that they, or either of them, at the time of the commencement of this action, or at any other time, claim, or pretend to claim, any title or interest in any lands lawfully belonging to the plaintiffs. They, and each of them, severally deny that they claim, or pretend to claim, any right, title, or interest in or to any of the lands embraced within the boundaries of the Pulgas Rancho, so called, as originally described in the grant from the Mexican government, and upon which the patent issued from the United States to plaintiffs.

They, and each of them, deny that they now claim, or ever claimed, any interest in any lands within one league of the "esteros" or estuaries of the bay of San Francisco.

The defendants Maria Louisa Greer and Manuella Coppinger, for a further and separate defense, say that they are the owners in fee-simple as tenants in common of that certain tract of land situated in the county of San Mateo, known as the Rancho Cañada de Raymundo, as the same has been surveyed and patented by the United States to the said defendants Maria Louisa Greer and Manuela Coppinger, which patent has been duly put upon record in the recorder's office of San Mateo County. And these defendants say that the eastern boundary of said tract of land is upon a line running from the San Mateo Creek to the Francisquito Creek, parallel with the bay of San Francisco, and distant one league from the esteros or estuaries of said bay, said line being the western boundary of the Pulgas Rancho, and that they do claim a title paramount to that of plaintiffs to all of the lands lying west of said line running one league from the esteros or estuaries as aforesaid, and deny that the plaintiffs have any right or lawful title to any lands westward of said boundary, and defendants pray that it be adjudged by this court that the defendants Maria Louisa Greer and Manuela Coppinger are the lawful owners in fee-simple of the lands and premises before mentioned, and that it be determined by the judgment of the court that the plaintiffs have no title to any of the lands or premises outside of and westwardly of the said one league of land in breadth, as is mentioned above, and also in plaintiffs' complaint, and that the defendants have judgment for their costs and such other and further relief in the premises as to the court shall seem fit.

H. A. SCOFIELD,
Attorney for Defendants.

(Indorsed:) 274. 12th district court, San Mateo County. S. O.
24 de Arguello, J. R. de Arguello, S. M. Mezes, vs. John Greer, Maria Louisa Greer, Manuela Coppinger, et als. Answer of defendants John Greer, Maria Louisa Greer, Manuela Coppinger. Filed February 4th, 1862. B. G. Lathrop, clerk. H. A. Scofield, defendants' attorney.

Replication to answer of John Greer, his wife, and Manuela Coppinger.

In the district court of the twelfth judicial district of the State of California, in and for the county of San Mateo.

SOLEDAD ORTEGA DE ARGUELLO, JOSÉ RAMON de Arguello, and S. M. Mezes, plaintiffs,
vs.
JOHN GREER, MARIA LOUISA GREER, wife of said John Greer, Manuela Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Dennis Martin, defendants.

And now come the plaintiffs, and, for replication set up in the answer of the defendants John Greer, Maria Louisa Greer, his wife, and Manuela Coppinger, they, the plaintiffs, deny that the eastern boundary of the tract of land situated in the county of San Mateo, and known as the Cañada de Raymundo, and mentioned in the said answer, is upon a line running from the San Mateo Creek to the San Francisquito Creek, parallel with the bay of San Francisco, and distant one league from the esteros or estuaries of said bay; and they deny that the said line is the western boundary of the Pulgas Ranch; and they further deny that the defendants John Greer, Maria Louisa Greer, and Manuela Coppinger, or either of them, have any title to any lands lying west of said line, and described in the complaint herein; and they deny that the said Rancho Cañada de Raymundo embraces the land described in the complaint, or any portion thereof.

SIDNEY L. JOHNSON,
Attorney of Plaintiffs.

25 (Indorsed:) 274. Twelfth district court, San Mateo County. S. O. de Arguello et als. vs. John Greer et als. Replication. Due service of a copy of the within is admitted, February ———. H. A. Scofield, attorney for John Greer, Maria Louisa Greer, and Manuela Coppinger. Filed February 12th, 1862. B. G. Lathrop, clerk.

Order for default of defendant Dennis Martin.

In the twelfth district court, San Mateo County, State of California.

S. O. DE ARGUELLO ET ALS.
vs.
JOHN GREER ET ALS.
} Action to quiet title.

To the clerk of said court:

Ten days having elapsed since the service of summons in this cause upon the defendants Greer, Maria Louisa Greer, Manuela Coppinger, and Dennis Martin, all of whom were served in the said county of San Mateo, and no answer having been filed herein, or other appearance entered, by or on the part of said defendant Martin, you are hereby di-

rected to enter the default of said defendant Dennis Martin according to law.

Yours, etc.,

S. L. JOHNSON,
C. M. FOX, *Plaintiffs' Attorneys.*

FEBRUARY 5TH, 1862.

(Indorsed:) 214. Twelfth district court, San Mateo Co. S. O. de Arguello et als. vs. John Greer et als. Order for the default of defendant Dennis Martin. Filed February 5th, 1862. B. G. Lathrop, clerk.

State of California, court of the twelfth district.

CLERK'S OFFICE OF THE DISTRICT COURT,
Of the County of San Mateo, ss:

S. O. DE ARGUELLO
vs.
JOHN GREER ET ALS.

26 In this action the defendant Dennis Martin having been personally served with process, as appears by the papers on file herein, and having failed to appear and answer the complaint of the plaintiff on file herein, and the legal delay for answering having expired, the default of the said defendant in the premises is hereby entered according to law.

Attest my hand and seal of said court this 5th day of February, A. D. 1862.

[L. S.] B. G. LATHROP, *Clerk.*

(Indorsed:) 294. Twelfth district court, San Mateo Co. S. O. de Arguello et als. vs. John Greer et als. Default of Dennis Martin. Filed February 5th, 1862. B. G. Lathrop, clerk.

Notice of motion to change the place of trial.

In the district court of the twelfth judicial district in and for the county of San Mateo.

SOLEDAD ORTEGA DE ARGUELLO ET ALS.
vs.
JOHN GREER, JAMES MORRISON, ET ALS. — To quiet title.

You will please take notice that, on Saturday, the 29th day of March, 1862, on the opening of the court on that day, or as soon thereof as counsel can be heard, at the court-room of the district court of the twelfth judicial district in and for the city and county of San Francisco, in the city hall of said city and county, we will move said court to change the place of trial of the above-entitled action from the county of San Mateo to the city and county of San Francisco, on the ground that the convenience of witnesses and the ends of justice will be promoted by the change.

CROCKETT & CRITTENDEN,
Attorneys for Greer, Morrison, et als.

SAN FRANCISCO, *March 26th*, 1862.

TO SIDNEY L. JOHNSON, Esq., *Attorney for Plaintiffs.*

I acknowledge service of the within notice, consent to the hearing thereof at the time and place mentioned, and admit that the special ground for the change of the place of trial exists.

SIDNEY L. JOHNSON,
Attorney for Plaintiffs.

SAN FRANCISCO, *March 26th*, 1862.

27 (Indorsed:) Twelfth district court, San Mateo County. S. O. de Arguello et als. vs. John Greer et als. Notice of motion to change place of trial. Filed April 9th, 1862. B. G. Lathrop, clerk.

Order transferring cause.

In the district court of the twelfth judicial district of the State of California, in and for the county of San Mateo.

SOLEDAD ORTEGA DE ARGUELLO ET ALS.
vs.
JOHN GREER, JAMES MORRISON, ET ALS. } Action to quiet title.

Upon motion this day made by A. P. Crittenden, esq., defendants' counsel, upon notice of motion duly served, with admission of service thereof by plaintiffs' attorney, S. L. Johnson, esq., and after hearing said motion at the court-room of the district court of the twelfth judicial district in and for the city and county of San Francisco, in the city-hall of said city and county, in accordance with said notice of motion, and no person appearing to object thereto, and it appearing for the convenience of witnesses, and that the ends of justice will be promoted thereby, it is ordered that this cause be transferred to the said district court of the twelfth judicial district of the State of California, in and for the city and county of San Francisco, for trial and all other proceeding. And the clerk of said court in and for San Mateo County is hereby ordered to transfer all papers on file in said court in this cause to the clerk of said twelfth judicial district court in and for said city and county of San Francisco.

A. CAMPBELL,
Judge Twelfth District.

Dated San Francisco, March 29th, 1862.

(Indorsed:) Twelfth district court, San Mateo County. S. O. de Arguello et als. vs. John Greer et als. Order transferring cause. Filed April 9th, 1862. B. G. Lathrop, clerk.

28 *Certificate for papers on transfer.*

Twelfth district court, San Mateo County.

ARGUELLO ET ALS.
vs.
JOHN GREER ET ALS.

I certify that the foregoing are all the papers that have been filed in this case, and that I hereby transmit the same, as ordered, to the clerk of the twelfth district court, San Francisco County.

Witness my hand and official seal this 10th day of April, 1862.

[L. S.] B. G. LATHROP, *Clerk.*

(Indorsed:) 9866. Twelfth district court. S. O. de Arguello et als. vs. John Greer et als. Papers on transfer. Filed July 19th, 1862. W. Bartlett, clerk, per W'm R. Satterlee, deputy clerk.

Answer of all defendants.

District court of the twelfth judicial district in and for the city and county of San Francisco.

SOLEDAD ORTEGA DE ARGUELLO ET ALS.
vs.
JOHN GREER ET ALS.

The defendants John Greer, Maria Louisa Greer, his wife, James Morrison, Dennis Martin, Joseph B. Crockett, and Alexander P. Crittenden, by their attorneys, and the defendant Manuela, by her guardian ad litem, H. A. Scofield, now come, and, for answer to the complaint in the above-entitled cause, deny that the plaintiffs are the lawful owners in fee-simple of the premises described in the complaint, or any part thereof, or that they had, at the commencement of this suit, or have now, a lawful and valid title in fee-simple, or otherwise, to the said premises, or any part thereof; and they deny that they (the plaintiffs) are in the lawful possession thereof, or that they have any possession of said premises, except as hereinafter admitted. And, for further answer, defendants admit that they claim title to all that portion of the premises described in the complaint lying and being to the westward of a line running from the creek or arroyo of San Mateo to the creek or arroyo of San
29 Francisquito, at a distance of one Spanish league westerly from the esteros or estuaries of the bay of San Francisco; and they aver that they have a valid and just title thereto, which is superior in equity to the title of the plaintiffs. And, further answering, they aver that their title to said premises was and is derived as follows, to wit: That on the fourth day of August, 1840, there was granted, in due form of law, by Juan B. Alvarado, then the constitutional governor of Upper California, to one Juan Coppinger a certain tract of land situate within the limits of the present county of San Mateo, in the said State of California, which tract is described in said grant as the "place known under the designation of Cañada de Raymundo, bounded on the west by the Sierra Moreno; on the east by the Rancho de las Pulgas; on the south by that of Señor Maximo Martinez; and on the north by the great lagoon or pond;" and in the third condition of said grant the land is again referred to as that between the boundaries shown by the diagram or diseño which accompanies the petition of said Coppinger; and it was further provided in said grant that the judge who should give possession of said land should have it measured according to the ordinances specifying the number of "sitios" it contained. The defendants further charge that the diagram or diseño referred to plainly and distinctly indicates a tract of land bounded on the several sides by the natural objects and by the ranchos specified in the grant; and they aver that said Coppinger entered upon, and for a long time occupied, said lands under and in pursuance of said grant, claiming to the boundaries aforesaid, and continued so to occupy a portion of said lands to the time of his death; but they aver that said Coppinger died prior to the year 1850 intestate, leaving one child, to wit, Manuela Coppinger, and a widow, Maria Louisa Coppinger, who were his only heirs at law, and as such

succeeded to, and by law became invested with, all the title and right which at the time of his death the said Juan Coppinger had in and to the said lands; and the said widow, Maria Louisa Coppinger, afterwards intermarried with the defendant John Greer, and is now the wife of said Greer. The defendants further charge that, after the passage of the act of Congress of March 3d, 1851, establishing a board of United States land commissioners for the adjudication of private land claims in California, the said John Greer, and Maria Louisa Greer, his wife, and the said Manuela Coppinger, presented in due form of law to said
30 board of land commissioners their petition, praying that the title to said lands be confirmed to the said Maria Louisa and to the said Manuela as the heirs at law of said Coppinger, deceased; and thereupon such proceedings were had in said cause that afterwards, to wit, on the twenty-ninth day of November, 1853, a final decree was entered therein by the said board confirming said lands to the said Maria Louisa and Manuela, as prayed for, and describing the said lands in the said decree in the same manner precisely as they were described in the grant hereinbefore referred to, which description includes the land described in the complaint; and they further aver that the said cause was afterwards appealed to the district court of the United States for the northern district of California, within which district the said lands were and are situate; and such proceedings were had upon said appeal, that afterwards, to wit, on the fourteenth day of January, 1856, a final decree was entered therein, confirming in all things the said decree of the said board of land commissioners, and confirming to the said Maria Louisa and Manuela the lands aforesaid by the same description hereinbefore stated. And they further aver that the said grant and the said decrees of confirmation were by metes and bounds, and for all lands within the boundaries hereinbefore specified, and not for any specific quantity; but the quantity actually embraced in said boundaries is much less than eleven square leagues. And they aver that afterwards, to wit, on the eleventh day of November, 1858, an order was entered in said cause in the said district court to the effect that the Attorney General of the United States, having given notice that no appeal to the Supreme Court of the United States would be prosecuted in said cause, and a stipulation having been entered into by the district attorney that no further appeal should be taken on the part of the United States, and for leave to the claimants to proceed under the decree of said district court heretofore rendered in their favor, it was thereupon, on motion of the district attorney, ordered, adjudged, and decreed that the complainants have leave to proceed under the decree of said court theretofore rendered in their favor, as on a final decree, by reason of which proceedings the said decree of confirmation has become absolute and final.

The defendants further aver and charge that the said Juan Coppinger, in his lifetime, to wit, on the fifteenth day of March, 1846, by his deed of that date, duly executed and delivered, and for a valuable con-
31 sideration conveyed, to the defendant Dennis Martin a portion of the said lands, which portion so conveyed is part of the land described in the complaint, and is bounded and described in said deed as follows, to wit: All that part and portion of the land called Cañada de Raymundo, situated to the north of the arroyo of San Francisquito, commencing at that arroyo at the boundary line of the rancho of Las Pulgas; following said arroyo to the house of the late Antonio Buelna, and from this house shall be drawn a line north-northwest two English miles; following the arroyo of San Francisquito from the said house of

Buelna and towards the head of the arroyo until arriving at an arroyo called "Seco," known as the same arroyo on which is situate the house of the grantor Coppinger; from the point where the arroyo empties into the arroyo of San Francisquito shall be run the distance of eight hundred Castilian varas; and from that point shall be drawn a line which shall touch the extremity of the aforesaid line of two miles, until reaching the boundary of Las Pulgas, whatever may be its direction. And the defendants aver that the said description and boundaries define with accuracy the lands so intended to be conveyed, and designate with certainty a portion of the lands so granted and confirmed as aforesaid. And that very soon after the execution of said deed, the said Martin, by virtue thereof, entered into and upon the possession and occupation of the land so conveyed, and erected valuable improvements thereon, and continued so in possession until he was ousted therefrom by the plaintiffs as hereinafter mentioned.

They further aver that said Martin, by good and sufficient deed, and for a valuable consideration, has conveyed to the defendant Morrison the tract of land last above described, and the said Martin and Morrison have conveyed to the defendants Crockett and Crittenden an undivided interest of eight hundred acres in the said tract last described, so that the title to the whole of said tract is now in the said Morrison, except the undivided interest of eight hundred acres conveyed to said Crockett and Crittenden in the manner aforesaid, who have succeeded to, and become invested with, all the title, legal or equitable, conveyed by said Coppinger in his lifetime to said Martin as aforesaid, and are now the owners in fee of said lands under the title aforesaid, which they aver is superior in law and equity to plaintiffs' alleged title.

The defendants further aver and charge that on the twenty-
32 ninth day of November, 1835, Don José Castro, then acting governor of California, granted to José Ramon Arguello, Louis Arguello, Maria Concepcion Arguello and Maria Josefa Arguello, children of Louis Arguello, deceased, a tract of land called "Las Pulgas," situate within the present county of San Mateo, and containing four square leagues, and which are bounded and described in said grant as follows: On the south by the arroyo of San Francisquito; on the north by the arroyo of San Mateo; on the east by the estuaries; and on the west by the Cañada de Raymundo; and defendants charge that after the organization of the board of United States land commissioners for the adjudication of private land claims in California, certain persons, to wit, Maria de la Soledad Ortega de Arguello and S. M. Mezes, presented their petition to said board for confirmation of the said claim, alleging that they had succeeded to the rights of the original grantees, and were entitled to said lands under the grant aforesaid; whereupon such proceedings were had in said cause that a decree was afterwards rendered by said board, confirming said claim to the extent of four leagues in length between the said creeks, and one league in breadth, excluding therefrom the Cañada de Raymundo, and bounded by it on the west, from which decree an appeal was taken to the district court of the United States for the northern district of California, upon the final hearing of which appeal a decree was rendered by said court affirming the aforesaid decree of said board, whereupon the said cause was appealed by the claimants therein, and also by the United States, to the Supreme Court of the United States, on the final hearing of which appeal it was adjudged and decreed as follows, to wit: That the said claim of petitioners is valid as to the portion of the land described in the petition, which is

bounded as follows, to wit: on the south by the arroyo or creek of San Francisquito; on the north by the creek of San Mateo; on the east by the esteros or waters of the bay of San Francisco; and on the west by the eastern boarders of the valley known as the Cañada de Raymundo, said land being of the extent of four leagues in length and one in breadth, be the same more or less; and it is, therefore, hereby decreed that the said land be, and the same is hereby, confirmed to them; and it is further adjudged and decreed that the said petitioners hold the same under this confirmation in the following shares or proportions, to wit: Maria de la Soledad Ortega de Arguello, one equal undivided fourth part thereof;

Louis Antonio Arguello, one equal undivided tenth part thereof;

33 and S. M. Mezes, three equal undivided twentieth parts of said premises, described in said petition, which is not included within the boundaries above mentioned; the claim of the petitioners is adjudged not to be valid. And the defendants aver that under and by virtue of said final decree the said claimants caused and procured the said lands to be surveyed by the United States surveyor general for California, and the said survey, when made, was approved by said surveyor general and forwarded to the General Land Office at Washington City, that a patent might issue thereon; and afterwards, to wit, on the second day of October, 1857, a patent did accordingly issue to the said claimants in accordance with the said approved survey. And defendants aver that said lands, as located by said survey and patent, are bounded on the south by the arroyo or creek of San Francisquito; on the north by the said creek of San Mateo; and on the east by the esteros or waters of the bay of San Francisco, being four leagues in length, or thereabouts, from north to south; but the western line of said survey, instead of being limited to the eastern borders of the valley known as the Cañada de Raymundo, extends much further towards the west than the eastern borders of said cañada, and embraces within said survey a large and valuable portion of said valley, lying to the westward of the eastern borders thereof, and which was included in said grant to Juan Coppinger, and in the decree confirming the same to the said Maria Louisa Greer and Manuela Coppinger, and in the deed from the said Juan Coppinger to Dennis Martin, and in the deed from said Martin to said Morrison, and in the deed from said Morrison and Martin to said Crockett and Crittenden. And defendants charge that the said survey is grossly erroneous in respect to the quantity of land embraced therein, in this, to wit: That under the final decree of confirmation in said cause, the claimants therein were entitled only to a tract four leagues in length from north to south by one league in breadth from east to west, with an area equal to four square leagues, whereas the lands included in said survey extend four leagues, or thereabouts, from the creek of San Mateo, on the north, to the arroyo or creek of San Francisquito, on the south, and nearly two leagues in breadth from the esteros or waters of the bay of San Francisco towards the west, and include an area of 35,240 47–100 acres, equal to more than seven square leagues; and there has been patented to said claimants, as

34 hereinbefore stated, all the lands embraced in said erroneous survey. The defendants charge that the western line of said survey ought properly to have been from the creek of San Mateo to the creek of San Francisquito, at such average distance to the westward from the esteros or waters of the said bay as would include an area of four square leagues, and at most the said western line should not have been located at a greater distance than one league from the said esteros or estuaries

of the bay, and, if so located, there would not have been included in said survey any portion of the lands sold and conveyed as hereinbefore stated, by said Juan Coppinger to Dennis Martin, and by said Martin to said Morrison, nor any land claimed by the other defendants, nor any portion of the land described in the complaint; that as the said survey was in fact made, locating the said western line much more than one league from the waters of the bay, there is erroneously and wrongfully included therein, and in the patent which issued in pursuance thereof, all the said lands so sold and conveyed to said Martin, and by him to said Morrison, and a large quantity of land held by the other defendants under, and embraced in, the said confirmation to said Maria Louisa Greer and Manuela Coppinger, which lands, as hereinbefore stated, are included in the aforesaid grant to said Coppinger, and in the final decree confirming the same as aforesaid. The defendants, therefore, charge that the said survey and patent are grossly erroneous, and do not conform to the final decree of confirmation on which they are founded, in this, to wit: That by the terms of said decree the western limit of said survey should not have been located at a greater distance than one league from the waters of the bay of San Francisco, and the said survey should not have included an area of more than four square leagues, and being so located, no portion of the land described in the complaint would be included in said survey and patent; whereas, in fact, the said western line, as located by said survey and patent, extends much further towards the west than the eastern borders of said cañada, and is much more than one league distant from the waters of said bay. And the area embraced in said survey is much greater than four square leagues, and is equal to 35,240 47–100 acres, or more than seven square leagues.

The defendants further charge that after the issuance of said patent, and before the date of said conveyance from said Martin to said Morrison, and from said Martin & Morrison to said Crockett & Crittenden, the said S. M. Mezes, Maria de la Soledad Ortega de Arguello, and José Ramon Arguello, commenced an action of ejectment on the law side of the circuit court of the United States for the northern district of California, against the said Dennis Martin, John Greer, and others, for the recovery of the possession of the lands so conveyed by said Juan Coppinger to said Martin, and by said Martin afterwards conveyed to said Morrison, and other lands held by said Greer and wife, and said Manuela, under said decree of confirmation, and wrongfully embraced in said survey and patent, and on the trial of said cause, the plaintiffs put in evidence and relied upon as proof of their title to said premises, the patent aforesaid, which was the only proof of title offered in evidence by them; and thereupon such proceedings were had in the said cause, that afterwards, to wit, on the 3d day of November, 1858, by the judgment and consideration of said district court, it was adjudged that the plaintiffs were tenants in common of said lands, and that they recover from the defendants the possession of said premises, and that said plaintiffs have their writ of restitution, etc., and that said plaintiffs recover the costs in that behalf expended. And the defendants further aver that on the trial of the said action the defendants therein offered to prove as a valid and sufficient defense to said action, the facts hereinbefore stated in respect to the grant to the said Coppinger, and the confirmation thereof, and in respect to the said conveyance to said Martin, and in respect to the grant and confirmation of the said Las Pulgas Rancho, and in respect to the said erroneous survey and patent, and offered to prove that the western line of said survey was

located at an average distance of more than one league from the esteros or waters of the bay, and being much to the westward of the eastern borders of said cañada, and that if said western line had been correctly located in accordance with the final decree of confirmation in said cause, it would not have embraced any portion of the lands conveyed to said Martin, nor any portion of the lands held by said Greer and wife, or said Manuela, under the said Coppinger title, nor any of the lands in contest in said suit, (which are the same lands described in the complaint herein.) To all which proof the plaintiff objected as incompetent evidence in said action at law; and thereupon, on motion of plaintiffs, the said proof was excluded by the court, on the ground that in said action at law the said facts, if proved, would not constitute a defense against the said patent and survey. Whereupon a verdict and judgment was rendered in

36 favor of the plaintiffs for the recovery of the possession of the said lands; upon which judgment a writ of restitution was issued, by virtue of which the defendants in said action at law were evicted and ousted from the possession of all the lands included in said erroneous survey and patent, being the same lands which the said Greer and wife, and Manuela Coppinger, and the said Martin had held, claimed, and occupied under the said grant to Coppinger, and under the final decree confirming the same. And the lands from which they were so evicted, these defendants aver were and are all included in the said grant to Coppinger, and in the final decree confirming the same; and were and are erroneously and improperly included in the said survey and patent, and all lie to the westward of the westerly line of said Rancho las Pulgas, if the same had been run and located in conformity with the final decree confirming said claim. The defendants further aver that the plaintiffs have no possession of the lands described in the complaint, or any part thereof, except the possession acquired by them by means of the writ of restitution aforesaid; nor have the plaintiffs any title, legal or equitable, to the said lands, or any part thereof, except such as they have derived from the proceedings hereinbefore set forth. And the defendants further charge that the said westerly line, as erroneously located in said survey and patent, was so located through and because of mistake and misapprehension on the part of the said surveyor general and Commissioner of the General Land Office, in respect to the true and the proper location thereof, as fixed and determined by the final decree of confirmation in said case, and would not have been so located except for such mistake; and they further charge, that for the reasons hereinbefore stated, they are severally the bona-fide equitable owners in fee of all the lands aforesaid, and the plaintiffs in this cause have no equitable title whatsoever to any portion thereof; and the same having been wrongfully and by mistake included in said survey and patent, the said plaintiffs are in equity trustees for these defendants in respect to whatsoever mere legal title in and to said lands they acquired by virtue of the said survey and patent, and these defendants are entitled in equity and justice to a conveyance from the plaintiffs, and each of them, of whatsoever title they or either of them acquired in and to said lands by virtue of said survey and patent. But said plaintiffs refuse to make such conveyance, and claim to be entitled to the whole of said lands by reason of said survey and patent, and wholly deny these defendants' rights in the premises.

37 Wherefore these defendants pray that they be declared by the judgment of this court to be severally the owners in fee of the lands claimed by them respectively as hereinbefore described, under the said grant to Juan Coppinger, and the deeds of conveyance through

which they severally claim; that the title of each of the defendants to their several and respective interests be adjudged superior in equity to any claim or title of the plaintiffs; that the plaintiffs be adjudged to be trustees holding whatsoever title they acquired by said survey and patent, and to the land described in the complaint, in trust for the defendants severally according to their respective interests; that they be adjudged to release to defendants severally the title to said lands so acquired by the plaintiffs, by good and sufficient deeds, duly acknowledged, so as to be entitled to record, etc., so as to vest such title in these defendants according to their several and respective interests; that the plaintiffs be enjoined from setting up or claiming any title to said lands, or any part thereof, under said survey and patent; that the defendants have judgment for the possession of said land, and for such other and further relief as may be proper.

J. B. CROCKETT and
A. P. CRITTENDEN,
For themselves, and as Attorneys for Green and Wife, Morrison and Martin.
H. A. SCOFIELD,
Guardian ad litem for Manuela Coppinger.

(Indorsed:) District court of the twelfth judicial district. Soledad Ortega de Arguello et als. vs. John Greer et als. Answer. J. B. Crockett, A. P. Crittenden, and H. A. Scofield, attorneys for defendants. Received May 3d, 1862. W. Bartlett, clerk, per B. C. Duer, deputy clerk. Filed July 19th, 1862. W. Bartlett, per W. R. Satterlee.

Replication to answer of all defendants.

In the district court of the twelfth judicial district of the State of California, in and for the city and county of San Francisco.

SOLEDAD ORTEGA DE ARGUELLO ET ALS.
vs.
JOHN GREER ET ALS.

The plaintiffs, for reply to all new matter set up in the answer
38 of defendants as a defense to the demand and complaint of plaintiffs, now come and deny the same generally and specifically, except so far as the same may be specifically hereinafter admitted. And, further replying, the plaintiffs say they deny that the defendants, or any of them, have a just and valid title, or any title whatsoever, in law or in equity, to the tract of land described in the complaint, or to any portion thereof, or to any part or portion of the land comprised in the survey and patent of the Pulgas Rancho mentioned in the complaint. And, further replying, the plaintiffs say they deny that any grant was ever made to Juan Coppinger of the tract of land described in the complaint, or of any part thereof, or of any part or portion of the lands embraced within the survey and patent of the Pulgas Rancho mentioned in the complaint. And, further replying, the plaintiffs say they deny that Juan Coppinger ever conveyed to the defendant Dennis Martin any part of the land described in the complaint, or any land forming part of the Pulgas Rancho, as the same is surveyed and patented by the United States. And further replying, plaintiffs say, they deny that the western line of the survey of the Pulgas Rancho, as approved and patented, extends farther towards the west than the eastern border of the valley known as the Cañada de Raymundo; and they deny that the

same embraces within said survey a large and valuable portion of said valley lying to the westward of the eastern borders thereof, and which was included in the grant to Juan Coppinger, and the decree confirming the same; and they deny that said line embraces any portion of said valley or Cañada de Raymundo, or any portion of the land granted to Juan Coppinger, or confirmed to his said heirs, or belonging to the defendants; that the plaintiffs further deny that said survey of the Pulgas Rancho is erroneous with respect to the quantity of land embraced therein; and they deny that the grant of the Pulgas Rancho was limited to the quantity of four square leagues, or that the grant thereof was a grant by quantity. And they deny that the lands which the plaintiffs in the action at law, mentioned in the answer of defendants, sued for the possession of, and received and were put in possession of, under the writ of restitution mentioned in said answer, were ever granted to Juan Coppinger, or were, in whole or in part, embraced in any grant to him, or conveyed by him to the defendants, or any of them, or that the defendants, or any of them, have any right, title, interest, claim, or demand of, in, or to any portion thereof. And, further replying, the plaintiffs aver that the tract of land which the said Juan Coppinger solicited of the Mexican government of California, was described by him in the petition therefor, addressed by him to said government, as a cañada, or a narrow valley in the sierras, where there was actually a cutting of wood, having in length two and a half leagues, and in breadth three-quarters of a league at the utmost, bounding with the rancho of Donna Soledad Ortega, (meaning the said Pulgas Rancho,) and that of Maximo Martinez, and with the sierra above, as appears from the accompanying diseño; that the grant made to him by the Mexican government was of the land so asked for by him; that by the proceedings had by his heirs before the said United States land commission, and in the district court of the United States, mentioned in the answer of defendants, the said tract of land was finally confirmed to said heirs; that the said tract of land so asked for and granted to said Coppinger, and confirmed to his heirs, and which, according to the description thereof by said Coppinger in his said petition, could contain at the utmost but one league and seven-eighths of another, or about 8,321 acres, was surveyed in accordance with the final decree of confirmation by the surveying department of the United States for California, so as to include all of said Cañada (or valley) of Raymundo asked for, and an area of 12,545 acres, and a survey thereof was duly approved by the surveyor general of the United States for California, and a patent for the land so confirmed and surveyed was thereupon, on or about the 19th of July, 1859, duly executed by the President of the United States to the claimants, the heirs of Juan Coppinger, and issued to them, and was received by the said claimants, or their assigns, and put on record in the county of San Mateo, wherein said lands are situated, and the said claimants and their assigns have accepted the said patent, and availed themselves of the title therein conveyed to them by the effect of the said patent, and are estopped from laying claim, under the said grant to Juan Coppinger, and decree of confirmation thereof, to any lands beyond the limits of said patent. And the plaintiffs further show and aver that said patent to the said heirs of Juan Coppinger is coterminous with the said patent of the Pulgas Rancho, and includes no part of said rancho as surveyed and patented, and no part of the lands described in the complaint.

39

SIDNEY L. JOHNSON,
Attorney of Plaintiffs.

40 (Indorsed:) Twelfth district court, San Francisco. S. O. de Arguello vs. John Greer. Service of a copy of the within replication, made this day, is admitted. San Francisco, July 10th, 1862. Crockett & Crittenden, for defendants. Recorded July 10th, 1862. W. Bartlett, clerk, per W'm R. Satterlee, deputy clerk. Filed July 19th, 1862. W. Bartlett, clerk, per W'm R. Saterlee, deputy clerk.

Stipulation and admission of facts.

In the district court of the twelfth judicial district of the State of California, in and for the city and county of San Francisco.

S. O. DE ARGUELLO ET ALS., PLAINTIFFS,
vs.
JOHN GREER ET ALS., DEFENDANTS.

It is hereby stipulated and agreed between the parties hereto, that the plaintiffs shall move for judgment in their favor on the pleadings, and on the following evidence and admissions; which admissions are made for the purposes of said motion only:

1. The Pulgas patent, dated Oct. 2d, 1857, is in evidence.

2. It is admitted that the land in controversy, and described in the complaint, is part of the land surveyed and patented in said patent of the Pulgas Rancho.

3. It is admitted that plaintiffs, partly as being themselves original grantees and patentees of said Pulgas Rancho, and partly by valid mesne conveyances from such original grantees and patentees thereof as are not parties hereto, hold all the right and title of the original grantees and patentees of the said Pulgas Rancho to the land described in the complaint.

4. It is admitted that plaintiffs, by themselves or their tenants, are in the actual possession of the lands described in the complaint.

5. The defendants offer in evidence the Coppinger expediente, grant, decree of confirmation, and dismissal of appeal therefrom, and order of court to proceed under the decree of confirmation as final.

6. It is admitted that whatever title the grantee, Juan Coppinger, had to the premises in controversy has, by descent or valid mesne conveyance, passed to the defendants in this suit; and that the defendant
41 Martin, under whom the defendants Morrison and Crockett & Crittenden derive title, acquired his title to a portion of the lands in contest by a conveyance from said Juan Coppinger in his lifetime, and entered into possession under said conveyance in the year 1846, and continued so in possession under said conveyance until the year 1861, when he was evicted by means of an action of ejectment instituted against him by the plaintiffs, founded on the said patent for the Pulgas Rancho.

7. The final decree of confirmation in the Pulgas case, as given in the report of the case of Arguello et als. vs. the United States, (18 Howard's U. S. Reports, p. 549,) is also offered in evidence by the defendants.

8. It is admitted that the western line of the survey and patent of the Pulgas Rancho runs from north to south along the western base of the range of hills which bounds the Cañada de Raymundo on the east, and does not include any of the level lands of said cañada, but embraces the whole of said range of hills bounding the said cañada on the east.

9. It is admitted that the said western line of said Pulgas survey is

more than one Mexican league distant from the "esteros," or eastern boundary thereof, and that the San Mateo Creek, or northern boundary thereof, is more than four Mexican leagues distant from the San Francisquito Creek, or southern boundary thereof.

10. The expediente and grant of the Pulgas Rancho may be put in evidence by either party.

11. It is admitted that a patent was issued to the defendants Maria Louisa Greer and Manuela Coppinger by the United States, for the rancho granted to Juan Coppinger by the name of Cañada de Raymundo, which patent is dated the 19th of July, 1859, and is founded on a survey of said rancho, approved by the United States surveyor general for California, on the . It is further admitted that the easterly line of the Cañada de Raymundo, or Coppinger Rancho, as so surveyed and patented, is coterminous with the westerly line of the Pulgas survey and patent. The said patent for the said Cañada de Raymundo, or a certified copy of the said U. S. survey thereof, may be offered in evidence by either party. It is admitted that said patent is in the usual form of the patents issued under the act of Congress "to ascertain and settle the private land claims in the State of California," approved March 3d, 1851, under which the confirmation of the said grant to Juan Coppinger was claimed by said Maria Louisa Greer and Manuela Coppinger, as sole heirs of said Juan Coppinger.

42 12. It is admitted that the defendant Dennis Martin has never accepted said patent, nor relied upon, nor used the same in any manner.

13. It is admitted that the defendants John Greer, and his wife, Maria Louisa Greer, refused to accept said patent when issued, but subsequently, in the prosecution and defense of suits relating to the title of lands included within said patent, relied upon and put in evidence said patent as a muniment of the title of the said Maria Louisa Greer, but have not otherwise accepted the same.

14. It is admitted that said patent was accepted, and was caused to be recorded, by one Havens, who was in possession of a portion of the lands included therein under a title from said Juan Coppinger in his lifetime. It is also admitted that the said Manuela Coppinger is yet a minor, and the said John Greer, on the 19th day of July, 1859, was, and ever since has been, her statutory guardian; but the said Greer has never accepted said patent on behalf of his said ward, unless such acceptance can be inferred from the facts hereinbefore admitted.

It is further stipulated and agreed that, if the motion for judgment to be made by the plaintiff upon the pleadings and upon the facts aforesaid shall be denied by the court, the cause shall proceed to trial as if this stipulation had not been made; and no admissions herein contained shall thenceforth be obligatory upon either of the parties, the said admissions being made for the purposes of said motion only.

J. B. CROCKETT,
A. P. CRITTENDEN,
Attorneys for Defendants.
SIDNEY L. JOHNSON,
Attorney of Plaintiffs.

(Indorsed:) Twelth district court. S. O. de Arguello et als. vs. John Greer et als. Stipulation. Filed April 9th, 1863. W. Bartlett, clerk, per S. L. Lupton, dep. clerk.

43 *Decree.*

In the district court of the twelfth judicial district of the State of California, in and for the city and county of San Francisco.

SOLEDAD ORTEGA DE ARGUELLO, JOSE RAMON de Arguello, and S. M. Mezes, plaintiffs,
vs.
JOHN GREER AND MARIA LOUISA GREER, WIFE of said John Greer, Manuella Coppinger, James Morrisson, Joseph B. Crockett, and Alexander P. Crittenden, defendants.

This cause came on to be heard by the court without a jury, by consent of parties, at the March term of this court for the year 1863, upon a motion made by plaintiffs for judgment in their favor upon the pleadings, and upon a statement of facts contained in written stipulations on file in the case; and it appearing that this cause was commenced in the twelfth district court in and for the county of San Mateo, in which county the land in controversy lies; and that Herman Scofield, an attorney and counselor at law, was duly appointed guardian at litem for the infant defendant Manuela Coppinger; and that said infant has appeared and answered by said guardian, together with the other defendants herein; and that, by order of this court, duly entered to that effect upon application and consent of counsel, said cause was duly transferred for trial to this court; and that, after hearing argument of counsel, the court took the case under consideration, and after due deliberation thereupon, has found the facts and conclusions of law in favor of the plaintiffs, and has ordered judgment thereupon for the plaintiffs and against the defendants:

Now, therefore, it is ordered, adjudged, and decreed that the plaintiffs be quieted in their possession of and title to all that tract of land described in the complaint, and against any and all claim of the defendants to the same, or to any part thereof, the said tract of land being all that part of the Pulgas Rancho as surveyed and patented by the United States to the plaintiffs and to Louis Antonio Arguello by a patent
44 dated October 2d, A. D. 1857, recorded in book 1 of patents, in the office of the recorder of the county of San Mateo, at pages 1 to 12, which tract of land is bounded northwardly by the San Francisquito Creek; westwardly by the westward line of said Pulgas Rancho, as shown by said United States survey and patent; northwardly by the San Mateo Creek; and eastwardly by a line running from the San Mateo Creek to the San Francisquito Creek at the distance of one league westwardly from the esteros or estuaries of the bay of San Francisco; and that the defendants, and all claiming under them, be forever barred from all claim to the said tract of land, or any part thereof. And it is further ordered, adjuged, and decreed that the adverse claim set up by the defendants in their answer herein be determined against the defendants and be dismissed, and that they be forever barred and perpetually enjoined from setting up and asserting said claim to the premises claimed by them, or by any of them, and to any part thereof; and that the plaintiffs be forever quieted in their possession of and title to the same, and the whole thereof, against the said claim of the defendants. And it is further ordered, adjudged, and decreed that the plaintiffs recover of the defendants the sum of ninety-one dollars and sixty cents as and for their costs, and have execution thereof.

LORENZO SAWYER,
Judge First Judicial District.

(Indorsed:) 9876. District court of the twelfth judicial district. S. O. Arguello et als., plaintiffs, vs. John Greer et als., defendants. Filed November 14th, 1863. W'm Loewy, clerk, per G. T. Letcher, deputy clerk.

45 *Judgment.*

In the district court of the twelfth judicial district of the State of California, in and for the city and county of San Francisco.

SOLEDAD ORTEGA DE ARGUELLO, JOSÉ RAMON Arguello, and S. M. Mezes, *vs.* JOHN GREER, MARIA LOUISA GREER, WIFE OF said John Greer, Manuel Coppinger, James Morrison, Joseph B. Crockett, and Alexander P. Crittenden.	No. 9866.

This cause came on to be heard by the court, sitting without a jury by consent of parties, at the March term of court for the year 1863, upon motion made by plaintiffs for judgment in their favor upon their pleadings, and upon a statement of facts contained in written stipulations on file in the case, and it appearing that this cause was commenced in the twelfth district court in and for the county of San Mateo, in which county the land in controversy lies, and that Herman Scofield, an attorney and counselor at law, was duly appointed guardian ad litem for the infant defendant Manuela Coppinger, and that said infant has appeared and answered by said guardian, together with the other defendents herein, and by order of this court duly entered to that effect, upon application and consent of counsel, said cause was duly transferred for trial to this court, and that after hearing argument of counsel, the court took the case into consideration, and after due deliberation thereupon has found the facts and conclusions of law in favor of the plaintiffs, and has ordered judgment thereupon for the plaintiffs and against the defendants:

Now, therefore, it is ordered, adjudged, and decreed that the plaintiffs be quieted in their possession of and title to all that tract of land described in the complaint, and against any and all claims of the defendants to the same, or to any part thereof; the said tract of land being all that part of the Pulgas Rancho as surveyed and patented by the United States to the plaintiffs, and to Louis Antonio Arguello, by a patent dated October 2d, 1857, recorded in book 1 of patents, in the office
46 of the recorder of the county of San Mateo, at pages 1 and 12, which tract of land is bounded southwardly by the San Francisquito; westwardly by the westward line of said Pulgas Rancho, as shown by said United States survey and patent; northwardly by the San Mateo Creek; and eastwardly by a line running from the San Mateo Creek to the San Francisquito Creek, at the distance of one league westwardly from the esteros or estuaries of the bay of San Francisco; and that the defendants, and all claiming under them, be forever barred from all claim to the said tract of land, or any part thereof; and it is further ordered, adjudged, and decreed that the adverse claim set up by the defendants in their answer herein be determined against the defendants and be dismissed, and that they be forever barred and perpetually enjoined from setting up and asserting said claim to the premises claimed by them, or any of them, and to any part thereof, and that the plaintiffs be forever quieted in their possession of and title to the same, and the whole thereof, against the said claim of the defendants.

And it is further ordered, adjudged, and decreed that the plaintiffs recover of the defendants the sum of ninety-one 60-100 dollars as and for their costs, and have execution thereof.

Decree recorded November 16th, 1863.

Certificate of county clerk.

In the district court of the twelfth judicial district of the State of California, in and for the city and county of San Francisco.

SOLEDAD ORTEGA DE ARGUELLO ET ALS.
vs.
JOHN GREER ET ALS.

CITY AND CO. OF S. F., *ss:*

I, W'm Loewy, county clerk of the city and county of San Francisco, State of California, and ex officio clerk of the district court of the twelfth judicial district thereof, do hereby certify the foregoing to be a true copy of the judgment entered in the above-entitled cause, and recorded in judgment book E of said court, at page 328. And I further certify that the foregoing papers, hereto annexed, constitute the judgment roll in said causes.

47 Witness my hand and the seal of said district court this sixteenth day of November, 1862.

[L. S.] WM. LOEWY, *Clerk*,
By G. C. LETCHER, *Deputy Clerk*.

(Indorsed:) No. 9866. Twelfth district court. Soledad Ortega de Arguello et als. vs. John Greer et als. Judgment roll. Filed Nov. 16th, A. D. 1863. W'm Loewy, clerk, by G. C. Letcher, deputy clerk. Recorded in judgment book E, page 388.

Statement on appeal and stipulation.

District court of the twelfth judicial district in and for the city and county of San Francisco.

SOLEDAD ORTEGA DE ARGUELLO ET ALS., plaintiffs,
vs.
JOHN GREER ET ALS., DEFENDANTS.
} Statement on appeal.

Be it remembered that on the trial of this cause the plaintiffs read in evidence a stipulation of counsel as follows:

(See record, pages 46–50, for the stipulation, containing admission of facts.)

The plaintiffs then read in evidence a patent from the United States for the Rancho las Pulgas in the words and figures following:

"The United States of America, to all to whom these presents shall come, greeting:

Whereas it appears from a duly authenticated transcript filed in the General Land Office of the United States, that, pursuant to the provisions of the act of Congress approved on the third day of March, one thousand eight hundred and fifty-one, entitled "An act to ascertain and settle the private land claims in the State of California," Maria de la

Soledad, Ortega de Arguello, José Ramon Arguello, Luis Antonio Arguello, and S. M. Mezes, as claimants, filed their petition on the twenty-first of January, A. D. 1852, with the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco; in which petition they claimed the confirmation of their title to a rancho situated in the county of San
48 Francisco and State of California, the quantity unknown, but supposed to contain about twelve square leagues, lying on the bay of San Francisco, between the creeks called "San Mateo" and "San Francisquito," and extending back to the sierra or range of mountains, their claim being founded upon a grant from the Spanish government to Don José Dario Arguello, afterwards recognized, confirmed, and renewed by the Mexican government to Don Luis Arguello, and known as "Las Pulgas."

And whereas the board of land commissioners aforesaid, on the twelfth day of October, 1853, rendered a decree of confirmation in favor of said claimants for a portion of the tract of land described in their petition, to the extent of four leagues in length and one in breadth, more or less, which decree or decision of the commissioners was, on appeal, confirmed by the United States district court for the northern district of California; and thereafter, the case having been brought by appeal from the district court aforesaid to the Supreme Court of the United States, the said Supreme Court, at the December term in 1855, (18 Howard's Reports,) rendered its decision as follows: "On the whole, we are of opinion that the judgment of the district court is correct, and it is adjudged that the said claim of the petitioners is valid as to that portion of the land described in the petition, which is bounded as follows, to wit: On the south by the arroyo or creek of San Francisquito; on the north by the creek of San Mateo; on the east by the esteros or waters of the bay of San Francisco; and on the west by the eastern borders of the valley known as the Cañada Raymundo, said land being of the extent of four leagues in length and one in breadth, be the same more or less; and it is therefore hereby decreed that the said land be, and the same is hereby, confirmed to them; and it is further adjudged and decreed that the said petitioners have and hold the same under this confirmation in the following shares or proportions, to wit: Maria de la Soledad Ortega Arguello, one equal undivided half thereof; José Ramon Arguello, one equal undivided fourth part thereof; Luis Antonio Arguello, one equal undivided tenth part thereof; and S. M. Mezes, three equal undivided twentieth parts of said premises; and as to the portion of the premises described in said petition which is not included within the boundaries above mentioned, the claim of the petitioners is adjudged not to be valid."

And whereas, under the 13th section of said act of third
49 of March, 1851, there has been presented to the Commissioners of the General Land Office a plat and certificate of survey of the land confirmed as aforesaid, authenticated on the nineteenth day of December, 1856, by the signature of the surveyor general of the public lands in the State of California; which plat and certificate are in the words and figures following, to wit:

"UNITED STATES SURVEYOR GENERAL'S OFFICE,

"*San Francisco, California:*

"Under and by virtue of the provisions of the 13th section of the act of Congress of the third of March, 1851, entitled 'An act to ascertain and settle the private land claims in the State of California,' and in

consequence of the annexed copy of a certificate of the United States court for the northern district of California having been filed in this office, whereby it appears that the Supreme Court of the United States, at their December term, 1855, approved and ratified the decision of the said district court in the case in which Maria de la Solidad Ortega de Arguello, José Ramon Arguello, Luis Antonio Arguello, and S. M. Mezes were claimants and appellants, and the United Staes were appellees, and it was then ordered, adjudged, and decreed by the said Supreme Court that the claim of the petitioners is valid as to that portion of the land described in the petition which is bounded as follows, to wit: On the south by the arroyo or creek of San Francisquito; on the north by the creek of San Mateo; on the east by the esteros or waters of the bay of San Francisco; and on the west by the eastern borders of the valley known as the Cañada de Raymundo, said land being of the extent of four leagues in length and one in breadth, be the same more or less; and it is therefore hereby decreed that the said land be, and the same is hereby, confirmed to them; and it is further adjudged and decreed that the said petitioners have and hold the same under this confirmation in the following shares and proportions, to wit: Maria de la Soledad Ortega de Arguello, one equal undivided half thereof; José Ramon Arguello, one equal undivided fourth part thereof; and S. M. Mezes, three equal undivided twentieth parts of said premises; and as to the portion of the premises described in said petition which is not included in the boundaries above mentioned, the claim of the petitioners is hereby ordered and decreed not to be valid."

And whereby it also appears that the said Supreme Court
50 of the United States, at their December term, 1855, approved and ratified the decision of the said district court, in the case in which the United States were appellants, and Maria de la Soledad Ortega de Arguella, José Ramon Arguello, Luis Antonio Arguello, and S. M. Mezes were claimants and appellees, and it was then ordered, adjudged, and decreed by the said Supreme Court "that the said claim of the petitioners is valid as to that portion of the land described in the petition, which is bounded as follows, to wit: On the south by the arroyo or creek of San Francisquito; on the north by the creek of San Mateo; on the east by the esteros or waters of the bay of San Francisco; on the west by the eastern borders of the valley known as the Cañada de Raymundo, said land being of the extent of four leagues in length and one in breadth, be the same more or less; and it is therefore hereby decreed that the said land be, and the same is hereby, confirmed to them; and it is further adjudged and decreed that the said petitioners have and hold the same under this confirmation in the following shares or proportions, to wit: Maria de la Soledad Ortega de Arguello, one equal undivided half thereof; José Ramon Arguello, one equal undivided fourth part thereof; Luis Antonio Arguello, one equal undivided tenth part thereof; and S. M. Mezes, three equal undivided twentieth parts of said premises; and as to the portion of the premises described in said petition which is not included within the boundaries above mentioned, the claim of the petitioners is hereby ordered and decreed not to be valid."

I have caused the same to be surveyed in conformity to the said decisions, and do hereby certify the annexed map to be a true and accurate plat of the said tract, as appears by the field-notes of the survey thereof made by Thomas S. Stephens, deputy surveyor, in the month of November, 1856, under the direction of this office, which, having been examined and approved, are now on file in this office. And I do further certify that, under and by virtue of the said confirmations and survey, the said

Maria de la Soledad Ortega de Arguello, José Ramon Arguello, Luis Antonio Arguello, and S. M. Mezes, are entitled to a patent from the United States, upon the presentation hereof to the General Land Office, for the said tract of land, according to their respective shares or interests therein, as specified and described in the said orders and
51 decrees of the Supreme Court of the United States, the same being bounded and described as follows, to wit: Beginning at the north, etc.

Now know ye that the United States of America, in consideration of the premises, and pursuant to the provisions of the act of Congress aforesaid of 3d March, 1851, have given and granted, and by these presents do give and grant, unto the said claimants, and to their heirs, the tract of land embraced in the foregoing survey, in the following proportions, to wit:

To Maria de la Soledad Ortega de Arguello, one equal undivided half;

To José Ramon Arguello, one equal undivided fourth part;

To Luis Antonio Arguello, one equal undivided tenth part; and

To S. M. Mezes, three equal undivided twentieth parts thereof;

But with the stipulation that, in virtue of the 15th section of the said act, the confirmation of this said claim and this patent shall not affect the rights of third persons.

To have and to hold the said tract, with the appurtenances, in the proportions aforesaid respectively, unto the said Maria de la Soledad Ortega de Arguello, José Ramon Arguello, Luis Antonio Arguello, and S. M. Mezes, and to their heirs and assigns, forever, with the stipulations aforesaid.

In testimony whereof I, James Buchanan, President of the United States, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, this second day of October, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States the eighty-second.

By the President:

[L. S.] JAMES BUCHANAN,
By G. H. JONES, *Secretary.*

I. N. GRANGER,
Recorder of the General Land Office.

Recorded Vol. I, pages 72 to 95, incl.
(Ex'd.)

Recorded in the county recorder's office of San Mateo County, November 26th, A. D. 1857, at 4 o'clock p. m., in Liber I of deeds, pages 250 to 261.

[L. S.] B. G. LATHROP,
County Recorder of San Mateo County, Cal."

52 This was all the proof offered by the plaintiffs, who rested.

The defendants then put in evidence a certified copy of the grant and expediente to Juan Coppinger.

Also a translation of the same, as follows:

"*Translation of grant and expediente.*

Expediente, at the instance of Senor D'n Juan Coppinger, claiming the land therein expressed. 1839. 220.

Mr. Prefect of the first district:

Juan Coppinger declares and says, before your lordship, in the best form according to law and right, that having five years ago come from Ireland to this territory, and having become a settler thereon according to the laws, and not having as yet any land, so as to enable him to live and work with more comfort, I solicit your lordship the grant of a small valley which lies in the sierra, in the same place where there now is a timber-cutting establishment; which place is about two and one-half leagues in length, and about three-quarters of a league in breadth at the utmost; said valley borders on the rancho of D'n Soledad Ortega and that of Maximo Martinez, and also on the sierra, at the extremity, as it appears from the accompanying sketch. I am dwelling on said land, sir, for the last four or five years, and up to this day I am not aware of its belonging to any of the bordering land-owners' estates, but have become acquainted with the fact that they are classed as "realengas," or unappropriated lands, and as I do not cause any prejudice in said place to any one, but myself useful by adding to the population there, and as a guardian and protector against the Indians, I solicit your lordship the grant thereof. Therefore, I beg your lordship will be pleased to act favorably towards me in this affair, and by so doing I will be a recipient of your lordship's favor and mercy.

Pueblo de San José de Alvarado, July 25th, 1839.

(Signed) JUAN COPPINGER.

MONTEREY, *August 3d*, 1840.

Having seen the petition with which this expediente begins, and the report of the prefect of the 1st district, together with all that was thought to attend to and bear in mind, according to the laws and regulations in the matter, D'n Juan Coppinger is hereby declared owner of the place known by the name of Canada de Raimundo, bordering
53 on the west with the Sierra Morena; on the east with the Rancho de las Pulgas; on the south with that of Senor Maximo Maranez; and on the north with the Great Lagoon.

Let the proper document be delivered, due registry be taken in the respective book, and the expediente transmitted to the cognizance and approval of the most excellent commission of the departmental government of the department of the Californias; so ordered, decreed, and signed it for the proper use.

(Signed) ALVARADO.

Under the same date, D'n Juan Coppinger being present, he was made acquainted with the purport of the preceding decree; after which he said it to be in conformity.

(Signed) JUAN COPPINGER.
JUAN B. ALVARADO,
Constitutional Governor of the Department of the Californias.

Whereas D'n Juan Coppinger, naturalized in the Mexican Republic, and married to a Mexican woman, has solicited for his personal benefit, and that of his family, the place known as "Canada de Raimundo," bordering on the west by the Sierra Morena; on the east by the Rancho de las Pulgas; on the south by that of Senor Maximo Martinez; and on the north with the lagoon; having previously taken the necessary steps and investigations on the subject, by virtue of the power vested in me, in the name of the Mexican nation, by a decree bearing this day's date, I have determined to grant him the mentioned land, declaring it to be

his property, by these presents, subject to the approval of the most excellent territorial department, and under the following conditions:

1st. He may fence it without prejudice to the crossings, roads, and servitudes; he shall enjoy it freely and exclusively, devoting it to the use or cultivation which may suit him best; but within one year he shall build a house, and it shall be inhabited.

2d. When the property shall have been confirmed to him, he shall solicit of the proper magistrate to give him judicial possession thereof, in virtue of this document, of which the boundaries will be marked, on the limits of which, besides the landmarks, he shall put some fruit-trees, or wild ones of some utility.

3d. The lands of which donation is made is that between the boundaries shown by the sketch he has presented. The judge who shall
54 give possession of it shall have it measured according to ordinance, specifying the amount of "sitios" it composes.

4th. If he contravene these conditions, he shall lose his right to the land, and it shall be denounceable by another. In consequence, I do order that this title being held as firm and valid, registry be made of it in the proper book, and that it be delivered to the interested party, for his safety and other uses.

Given at Monterey on the 4th day of August, 1840.

(Signed) J. B. ALVARADO.

Filed by contestants Feb. 4th, 1835.

GEO. H. FISHER, *Sec'y.*"

Also certified copies of the final decree of confirmation to Juan Coppinger's heirs and of an order of the United States district court dismissing the appeal; which papers are as follows:

"*Decree of confirmation.*

MARIA LOUISA GREER AND MANUELA COPPINger, by her next friend, John Greer,
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioners is valid; and it is therefore decreed that the same be confirmed.

The lands of which confirmation is hereby made are known by the name of Cañada de Raymundo, and are the same now occupied by the said claimants, and are bounded and described as follows, to wit: Bordering to the west on the Sierra Morena; to the east on the Rancho de las Pulgas; to the south on the rancho of Maximo Martinez; and to the north on the Great Lagoon, reference, for further description, to be had to a map which is made a part of document marked C, and filed in this case.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office Nov. 29th, 1853.

GEO. FISHER, *Secretary.*

55 I, William H. Chevers, clerk of the district court of the United States for the northern district of California, do hereby certify the foregoing to be a full, true, and correct copy of the "decree of confirmation," as the same appears in the transcript of the record from the U. S. land commission, in case entitled "the United States vs. Maria Louisa Greer et al., No. 21," on page 82, which said transcript is now on file and remains of record in my office, in the case entitled "the United States vs. Maria Louisa Greer et al., No. 75."

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 13th day of April, A. D. 1864.

[L. S., STAMP.] W. H. CHEVERS, *Clerk.*"

"Stated term, January 14th, 1856.

THE UNITED STATES
vs.
MARIA LOUISA GREER AND MANUELA COPPINGER. } No. 75.

Appeal from the final decision of the commissioners to ascertain and settle private land claims in California.

This cause, coming on to be heard at a stated term of this court on an appeal from the final decision of the board of commissioners to ascertain and settle private land claims in the State of California, under the act of Congress approved March 3d, 1851, upon the transcript of the proceedings and decision, and the papers and evidence on which said claim was founded, and it appearing to the court that such transcript has been duly filed according to law; and counsel for both parties having appeared, it is ordered adjudged, and decreed that said decision be, and the same is hereby, affirmed. And it is further ordered, adjudged, and decreed, that the claim of the appellees be confirmed to the tract of land known as "Canada de Raymundo," being the same now occupied by the said appellees, and bounded and described as follows, viz: Bordering to the west on the Sierra Morena; to the east on the Rancho de las Pulgas; to the south on the rancho of Maximo Martinez; and to the north on the Great Lagoon, reference, for further description, to be had to a map which is made a part of document marked C, and filed in this case.

OGDEN HOFFMAN,
U. S. Dist. Judge.

56 (Indorsed:) Filed January 14th, 1856. John A. Monroe, clerk, by W. H. Chevers, deputy."

"At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Tuesday, the eleventh day of November, in the year of our Lord one thousand eight hundred and fifty-six:

Present, the Honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
MARIA LOUISA GREER ET AL. } Case No. 75.

The Attorney General of the United States having given notice that no appeal to the Supreme Court of the United States will be prosecuted in this case, and a stipulation having been entered into by the district

attorney that no further appeal shall be taken on the part of the United States, and for leave to the claimants to proceed under the decree of this court heretofore rendered in their favor:

On motion of the district attorney it is ordered, adjudged, and decreed that the claimants have leave to proceed under the decree of this court heretofore rendered in their favor as on final decree.

OGDEN HOFFMAN,
U. S. Dist. Judge.

(Indorsed:) Filed November 11th, 1856. John A. Monroe, clerk, by W. H. Chevers, deputy.

I, William H. Cheevers, clerk of the district court of the United States for the northern district of California, do hereby certify the foregoing to be a full, true, and correct copy of the original "decree" and "order vacating appeal," now on file and remaining of record in my office in the case entitled "The United States vs. Maria Luisa Greer and Manuela Coppinger, No. 75."

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 1st day of May, A. D. 1863.

W. H. CHEVERS, *Clerk.*"

57 Also copy of final decree of confirmation of the Las Pulgas Rancho by the Supreme Court of the United States.

(See the decree as found in 18 Howard's Reports, p. 549.)

The defendants then rested.

The plaintiffs in rebuttal then put in evidence the expediente, grant, and deseños for the Las Pulgas Rancho, as follows:

"To the superior political chief.

Monterey, October 27, 1855. Send to the alcalde of the pueblo of San Francisco de Asis, before whom the party interested in representation of the minors will cause an information of three competent witnesses, who shall be interrogated on the following points: First, if the land stated in the petition was granted Don Luis Arguello, and how long ago; second, if his children and heirs are Mexican citizens by birth, and if they are of good behavior; third, if they have cultivated and populated the said land, and by what functionary was it granted; fourth, if the land is irrigable (de regadio) common farming (temporal) and pasture land, (abrevadero.) What extent it has, and what are its boundaries. These steps (diligencias) being taken, the expediente

Citizen José Estrada, with due respect, presents himself before Y. E. and says: That having been appointed the executor of the late Don Luis Arguello, captain of the company of the presidio of San Francisco, in which he has a rancho, at the place named Las Pulgas, which he possesses since the year 1800, as is publicly and notoriously known, and the papers of possession, which he had, having been mislaid, in the name of his heirs, who are four minor children, two boys, José Ramon and Luis, and two girls, Maria Concepcion and Maria Joséfa, I request Y. E. to be pleased to order, should he deem it proper, that the corresponding title be issued in favor of said heirs, according to the adjoining plot, i. e., from the creek of San Francisquito, and from the estuaries

will be returned to resolve upon the same. Señor Don José Castro, senior member (primer vocal) of the M. E. the territorial deputation, and political chief ad interim of the territory of Upper California, thus ordered, decreed, and signed. To which I certify.

JOSÉ CASTRO.

Francisco del Castillo Negrete,
Secretary.

(esteros) to the mountains (sierras.)

I beg Y. E. to be pleased to decree in favor of said heirs, that they shall receive said favor. I swear that this is not from any evil intent.

JOSÉ ESTRADA.

MONTEREY, *October* 27, 1835.

At the port of San Francisco, on the eleventh day of November, one thousand eight hundred and thirty-five, I, the constitutional alcalde of this precinct, (demarcacion,) in view of the superior decree of the twenty-seventh of October, of the present year, which is at the margin of the petition made by Don José Estrada, as executor, in favor of the minors of the deceased, (late) Captain Don Luis Arguello, with the object of effecting the information from three witnesses, which is ordered in the said superior decree, caused immediately to appear citizen José Sanchez, and he being questioned under the religion of the oath in form, (la religion del juramento en forma,) if he promised to say the truth on
58 the points on which he should be interrogated; he said he promised so to do, and questioned, if he knows that the land stated in the petition of Don José Estrada was granted to the deceased (late) Captain Don Luis Arguello, to say how long ago; if his children are Mexican citizens by birth, and are of good behavior; if they have cultivated and populated said land, and by what functionary was it granted to him; if the land is irrigable (de regadio) common farming (temporal) and pasture land, (abrevadero;) what extent it may have, and what are its boundaries. He said: That the land for which he is interrogated, and of which mention is made by Don José Estrada, he knows not by what functionary it was granted to the deceased, (late) Don Luis Arguello, but he does know that he (Arguello) made a representation to the deceased, (late) governor, who was of this territory, Don Pablo Sola, soliciting the ownership of said land; that the said (tract) of "Las Pulgas," he knew it many years ago as of Don José Dario Arguello, to whom it was granted by Don Diego Borica, *governor, who was* also of this territory, by reason of which he possessed and occupied it with his chattels (bienes) until the year one thousand eight hundred and fifteen, when the cattle having gone wild, the deceased, (late) Captain Don Luis Arguello, lent it (the land) to put there the cattle of the nation, which remained on it until the year one thousand eight hundred and twenty, when it was transferred to the tract of Buriburi; that since then the said deceased, (late) Captain Don Luis, returned to occupy it with his chattels, (bienes,) and until the present time his heirs continue to possess it; that these heirs are Mexican citizens by birth, and that he cannot say anything of their behavior, as they are yet in the state of puberty; that they have cultivated the land, and have populated it with cattle and horses, (caballada;) it is irrigable (de regadio) common farming (temporal) and pasture land, (abrevadero,) and it has an extent of about four leagues, little more or less, of latitude north and south, and one league, also little more or less, from east to west; that the boundaries which he has known to it are the creek of San Francisquito to the south, and that of San Mateo to the north, and from east to west the estuaries (esteros) and hills (lomas) situated at the west of the (monte redondo)

and Cañada de Raymundo. That this is all he knows and has to say on the subject, and what he has said is true under the oath he has taken; and he said to be sixty-two years old, and he signed it with me to-day as dated.

FRANCISCO DE HARO.
JOSE SANCHES.

59 Next after, on the same day, I caused citizen José de la Cruz Sanches to appear and interrogated under the formality of the oath if he promised to say the truth on the points on which he would be questioned. He said he promised to say it, and questioned: If he knows that the tract of "Las Pulgas" had been granted to the deceased (late) Captain Don Luis Arguello, to say how long ago; if his children are Mexican citizens by birth, and are of good behavior; if they have cultivated and populated the said land, and by what functionary was it granted to him; if it is irrigable (de regadio) common farming (temporal) and pasture land, (abrevadero;) what may be its extent, and what are its boundaries. He said: That the land for which he is interrogated he does not know that it may have been granted previously to the late Captain Don Luis; but that since he has had use of his reason (uso de razon) he has recognized it as of the said gentleman, and occupied and populated with his stock, (bienes de campo;) and that he even recollects (que aun llegò ò alcanzò todavia à conocer) in said rancho, cattle of the deceased Don José Dario Arguello, father of the said Captain Don Luis Arguello; that up to the present time the minors of said Don Luis possess it and occupy it with their stock, (bienes de campo;) and that these (the minors) are Mexican citizens by birth, and that of their behavior he cannot say anything, because they are yet of a tender age; that they have a house in said rancho, and have cultivated the lands they needed for farming, (labores,) and it is populated with cattle and horses, (caballada;) that it is irrigable (de regadio) common farming (temporal) and pasture land, (abrevadero;) and it may have an extent of about four leagues from the creek of San Mateo to the creek of San Francisquito, and one league, little more or less, from the estuaries (esteros) to the mountains covered with trees, (sierra,) and the boundaries which he has known as of this rancho are the two creeks he has spoken of, from north to south, and the estuaries, (esteros,) and the mountains covered with trees, (sierra,) from east to west.

That it is all he knows and has to say on to the subject on which he is questioned, and what he has said is the truth, in compliance with his oath. He said to be thirty-six years of age, and signed it with me.

FRANCISCO DE HARO.
JOSE DE LA CRUZ SANCHES.

60 Subsequently I caused citizen Juan Miranda to appear, who having been asked, under the religion of the oath, if he promised to tell the truth on the points on which he should be interrogated; he said he promised so to do, and asked: If he knows that the tract of "Las Pulgas" may have been granted to the deceased (late) Captain Don Luis Arguello, to say how long ago and by what functionary was it granted to him; if his children are Mexican citizens by birth, and are of good behavior; if the tract of which mention is made has been cultivated and populated by them; if it is irrigable (de regadio) common farming (temporal) or pasture land, (abrevadero;) what may be its extent, and what are its boundaries. He said: That he does not know that the tract of "Las Pulgas" has been granted to the deceased (late)

Don Luis Arguello, but that he knows that it was first of his father, Don José Arguello, many years ago; and that the deceased (late) Don Luis afterwards lent it to put on it the national cattle, when his own cattle went wild; that it having been transferred to the tract of Buriburi, the rancho of the nation, Don Luis Arguello after (immediately) occupied again (came back to occupy) the tract of "Las Pulgas;" and that since then, which may be about fourteen or fifteen years ago, he continued to possess it until he died; and up to the present time his children occupy it with the stock (bienes de campo) left by said deceased; that his children are Mexican citizens by birth; that of their behavior he can say nothing, they being still small; that in the said rancho there is a house, and it is inhabited; they have cultivated the lands they have needed for farming, (siembras,) and it is populated with cattle and horses, (caballada;) it is irrigable (de regadio) common farming (temporal) and pasture land, (abrevadero;) and it may have an extent of about four leagues, little more or less, from the creek of San Mateo to the creek of San Francisquito, which have been recognized for its boundaries, and from east to west about one league, little more or less also, from the estuaries (esteros) to the mountains covered with trees (la sierra) of the Cañada de Raymundo. That it is all he knows and has to say on what he has been interrogated, and what he has said is the truth, in compliance with the oath he has taken. He said he was forty-six years old, and signed it with the present alcalde.

FRANCISCO DE HARO.
JUAN MIRANDA.

61 In view of the conclusion of these investigations, (diligencias,) this expediente, which has originated with them, is returned to the superior political chief of the territory, Don José Castro, for the purposes that may follow.

Port of San Francisco, eleventh day of November, one thousand eight hundred and thirty-five.

FRANCISCO DE HARO.

MONTEREY, *November* 26, 1835.

In view of the petition with which this expediente begins, and the information of three competent witnesses, and in conformity with the laws and regulations of the subject, the minor orphans of the deceased citizen Don Luis Arguello, at the petition of José Estrada, citizen, are declared the owners in property of the tract known under the name of "Las Pulgas," reserving the approval of the M. E. territorial deputation, to which this expediente shall be sent. The corresponding patent (dispatch) to be issued and recorded in the corresponding book, delivering it to the interested parties for its suitable uses. Señor Don José Castro, senior member (vocal) of the M. E. territorial deputation, as political chief ad interim of Upper California, thus ordered, decreed, and signed. To which I certify.

JOSE CASTRO.

Dues, $12.

FRANCISCO DEL CASTILLO NEGRETE, *Secretary.*

MONTEREY, *December* 5, 1835.

In session of this day it was ordered to pass to the commission on public lands.

JOSE CASTRO, *President.*

MOST EXCELLENT SIR: The commission on public lands duly informed (impuesta) of the record of the proceedings (expediente) to be formed for the petition made by citizen José Estrada for the minor orphans of the deceased (late) Don Luis Antonio Arguello, to the tract named "Las Pulgas," not finding in it any objection whatever to make, being in everything in conformity with the law of the eighteenth of August, 1824, and the article fifth of the regulation of colonization of the twenty-fifth of November of 1828, the commission offers to the deliberation of your excellency the following proposition:

62 The grant made to the minor orphans of the deceased (late) Don Luis Antonio Arguello, solicited by their tutor, citizen José Estrada, to the tract named "Las Pulgas," granted on the twenty-sixth day of November, 1835, is approved, subjecting themselves to the conditions that may be stipulated.

SALVIO PACHECO.

MONTEREY, *December* 10, 1835.

MONTEREY, *December* 10, 1835.

In session of this day, the M. E. deputation approved the proposition of this report, ordering this record of proceedings (expediente) back to the political chief for the purposes to follow.

[R. S.] JUAN B. ALVARADO, *D. S.*

A corrected translation.

GEO. FISHER, *Secretary.*

(Indorsed:) No. 2. Maria de la Soledad Ortega de Arguello et al. Translation of the expediente instituted by José Estrada, executor of B. Filed in office January 21, 1852. Geo. Fisher, secretary. Recorded in Record of Evidence, vol. 2, pages 8 to 13.

U. S. SURVEYOR GENERAL'S OFFICE,
San Francisco, California:

I, James W. Mandeville, U. S. surveyor general for California, and as such having in my custody the papers of the late board of land commissioners to ascertain and settle the private land claims in California, do hereby certify the foregoing to be a correct copy of a document, as the same is on file in case No. 2, on the docket of said commissioners, together with the indorsements therein.

Given under my hand and official seal, at the city of San Francisco, this twenty-second day of December, A. D. 1857.

J. W. MANDEVILLE,
U. S. Surveyor General for California.

[First seal, six dollars.]

Provisionally qualified by the administration of the maritime custom-house of Monterey, in Upper California, for the year eighteen hundred and thirty-four and eighteen hundred and thirty-five.

(Signed) A. RAMIREZ.
(Signed) FIGUEROA.

63 José Castro, speaker of the most excellent the territorial deputation, and political chief ad interim of the territory of Upper California:

[L. S.] Whereas citizen José Estrada has petitioned, in the name of

his minor wards, José Ramon and Luis, and the girls, Maria Concepcion and Maria Josefa, legitimate children of the late citizen Luis Arguello, the tract known under the name of Las Pulgas, the boundaries of which are: On the south the creek of San Francisquito; on the north that of San Mateo; on the east the estuaries; and on the west the Cañada de Raimundo; an information of proper witnesses having previously taken place, and these having testified that the said tract belongs to the deceased (Arguello) since the year eighteen hundred; in use of the powers conferred on me in a decree of this day, and in name of the Mexican nation, I have concluded to declare to him the ownership of the same by the present letters, said concession being understood to be in entire conformity to what is ordered by law, reserving the approval of the most excellent territorial deputation. The tract of which mention is made is of four leagues of latitude and one of longitude. In consequence, I order that the present serving them as a title be held as firm and valid, it be recorded in the corresponding book, and delivered to the interested party for his security and other ends.

Given at Monterey on the twenty-seventh day of November, eighteen hundred and thirty-five.

[Duties, or fees, 20 dollars.]]

(Signed) JOSE CASTRO.

(Signed) F'co del Castillo Negrete,
Secretary.

[Fees, 10 dollars.]

Recorded on page eighty-eight, marked under number eighty-six of the corresponding book, which exists at the secretary's office under my charge.

(Signed) CASTILLO.

Monterey, *November 27 of* 1835.

[Third seal, two reals.]

Provisionally qualified by the administration of the maritime custom-house of Monterey, in Upper California, for the years 1834 and 1835.

(Signed) ANGEL RAMIREZ.

(Signed) CASTRO.

64 *Testimonial.*

[Proposition of the commission.]

The concession made to the minor orphans of the late Don Luis Arguello, solicited by their guardian, citizen José Estrada, to the tract named Las Pulgas, granted on the twenty-sixth of November, eighteen hundred and thirty-five, is approved, subject to the conditions that may be stipulated.

SALVIO PACHECO.

Monterey, 10*th of December*, 1835.

[Approval of the most excellent the territorial deputation.]

Monterey, *December* 10*th*, 1835.

In session of this day, the most excellent deputation approved the preceding report. Let the espediente go back to the political chief for the consequent ends.

JOSE CASTRO, *President.*

Juan B. Alvarado, *D. Secretary.*

[Decree of confirmation of the political chief.—Fees 8 dollars.]

In view of the approval, granted the tenth of this month by the most excellent the territorial deputation, let a testimonial of the same and of this decree be delivered to the party of Don José Estrada, in confirmation of the concession of the tract known under the name of Las Pulgas, which he obtained on the twenty-sixth of November of this year. Señor Don José Castro, speaker of the most excellent territorial deputation, and political chief ad interim of Upper California, thus ordered, decreed, and signed, to which I certify.

JOSE CASTRO.

FRANCISCO DEL CASTILLO NEGRETE, *Secretary.*

[Fees, 4 dollars.]

A true copy (concuenda a la letra) from its original, which is recorded in this office of the secretary of the political government, under my charge, in the bundle of espedientes approved by the most excellent the deputation, to which I refer.

(Signed) FCO DEL CASTILLO NEGRETE,
Secretary.

MONTERREY, *December 15th of* 1835.

I, John A. Monroe, clerk of the district court of the United States for the northern district of California, do hereby certify that the writings, traced copies, and traced diseños annexed to this certificate are full, true, and correct copies of their respective originals, now on file
65 and remaining of record in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of the law court the 19th day of December, A. D. 1857.

[L. S.] JOHN A. MONROE, *Clerk*,
By J. EDGAR GUYMER, *Deputy.*"

Also the survey and patent founded thereon for the Rancho Cañada de Raymundo, which are as follows:

"United States of America to all to whom these presents shall come, greeting:

Whereas it appears from a duly authenticated transcript filed in the General Land Office of the United States, that pursuant to the provisions of the act of Congress approved the third day of March, one thousand eight hunded and fifty-one, entitled "An act to ascertain and settle the private land claims in the State of California," Maria Louisa Greer and Manuela Coppinger, as claimants, filed their petition on the third day of February, 1852, with the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco; in which petition they claim the confirmation of their title to a tract of land known as the Cañada de Raymundo, said claim being of California; and whereas the board of land commissioners aforesaid, on the twenty-ninth day of November, 1853, rendered a decree of confirmation in favor of said claimants, which decree or decision was, on appeal, affirmed by the district court of the United States for the northern district of California, at a stated term on the fourteenth day of January, 1856; and the said court further ordered, adjudged, and decreed that the claim of the appellees be confirmed to the tract of land known as Cañada de Raymundo, being the same now occupied by the said appellees, and bounded and described as follows, viz: Bordering to

the west on Sierra Morena; to the east on the Rancho de las Pulgas; to the south on the rancho of Maximo Martinez; and to the north on the Great Lagoon, reference, for further description, to be had to a map which is made a part of document, marked C, and filed in this case. And whereas it further appears from a certified transcript on file in the General Land Office, that the Attorney General of the United States having given notice that no appeal to the United States would be
66 prosecuted in this case, the aforesaid district court, on the eleventh day of November, 1856, "ordered, adjudged, and decreed that the claimants have leave to proceed under the decree of this court heretofore rendered in their favor as on final decree." And whereas, under 13th section of said act of third March, 1851, there have been presented to the commissioners of the General Land Office a plat and certificate of the survey of the tract of land confirmed as aforesaid, authenticated on the seventeenth day of January, 1857, by the signature of the surveyor general of the public lands in California; which plat and certificate are in the words and figures following, to wit:

"U. S. SURVEYOR GENERAL'S OFFICE, *San Francisco, Cal.:*

"Under and by virtue of the provisions of the 13th section of the act of Congress of the third of March, 1851, entitled 'An act to ascertain and settle the private land claims in the State of California,' and of the 12th section of the act of Congress approved on the thirty-first of August, 1852, entitled 'An act making appropriations for the civil and diplomatic expenses of the government ending the thirtieth of June, eighteen hundred and fifty-three, and for other purposes,' and in consequence of the certificate from the United States court for the northern district of California, of which a copy is hereunto annexed, having been filed in this office, whereby it appears that the Attorney General of the United States having given notice that it was not the intention of the United States to prosecute the appeal from the decision of the said district court, by which it confirmed the decision of the board of commissioners appointed under the provisions of the said act of the third of March, 1851, to ascertain and settle the private land claims in the State of California, by which they recognized and confirmed the title and claim of Maria Louisa Greer and Manuela Coppinger to the tract of land known as the Cañada de Raymundo, the said appeal has been dismissed by the said district court, and thereby the said decisions in favor of the said Maria Louisa Greer and Manuela Coppinger have become final, I have caused the same to be surveyed in conformity to the grant of the same and the said decisions, and do hereby certify the annexed map to be a true and accurate plat of the said tract of land as appears by the field-notes of the survey made by T. S. Stephens, deputy sur-
67 veyor, in the month of November, 1856, under the direction of the office, which, having been examined and approved, are now on file in this office.

"And I do further certify that, under and by virtue of the said confirmation and survey, the said Maria Louisa Greer and Manuela Coppinger are entitled to a patent from the United States, upon the presentation hereof to the General Land Office for the said tract of land, the same being bounded and described as follows, to wit: Beginning on the west boundary of the Rancho las Pulgas at a point of intersection with the same of a line passing by the south end or head of the Laguna Grande or Lake Raymundo, at a post marked 'M. G. T.;' from which a willow, four inches in diameter, marked with four chops, bears south forty-three degrees west, distant forty-eight links; a rock three feet

square in Harrington's field bears north thirty-four degrees forty-five minutes east; a cane-shaped rock on the side of a hill bears south fifty-nine degrees thirty minutes east; and Harrington's house bears north sixty-three degrees east, distant about twenty-five chains. The head of the lake is thickly overgrown with willows for about fifteen chains, and it is a shallow sheet of water, and in summer contracts to one-half its proportions at other seasons. Thence by the true meridian, the variation of the magnetic needle being fifteen degrees thirty minutes east, retracing the west boundary of the Pulgas south forty-one degrees east," etc.

Now know ye, that the United States of America, in consideration of the act of Congress aforesaid, of the third of March, have given and granted, and by these presents do give and grant, unto the said Maria Louisa Greer and Manuela Coppinger, and to their heirs, the tract of land embraced and described in the foregoing survey; but with the stipulation that in virtue of the 15th section of the said act, the confirmation of this said claim "shall not affect the interests of third persons;" to have and to hold the said tract, with the appurtenances, unto the said Maria Louisa Greer and Manuela Coppinger, and to their heirs and assigns, forever, with the stipulation aforesaid.

In testimony whereof I, James Buchanan, President of the United States, have caused these letters to be made patent and the seal of the General Land Office to be thereunto affixed.

Given under my hand, at the city of Washington, this nineteenth day of July, in the year of our Lord one thousand eight hundred and
68 fifty-nine, and of the independence of the United States the eighty-fourth.

By the President:

[L. S.]

JAMES BUCHANAN,
By J. B. LENOARD, *Secretary.*

JOS. S. WILSON,
Acting Recorder of the General Land Office.

Recorded vol. 2, pages 168 to 183, inclusive.

(Indorsed:) J. S. W.

Twelfth judicial district court, State of California, county of San Mateo.

At the April term of the court—Hon. Edward Norton, judge—on motion of W. T. Gough, of counsel for John D. Havens, and on due proof to the court that public notice of the time of making this application was made by publication in the San Mateo County Gazette, and on producing and submitting to the court for its inspection the within patent for lands lying wholly within the county of San Mateo, and known as the Rancho Cañada de Raymundo, which patent purports to have been issued by the government of the United States of America to Maria Louisa Greer and Manuela Coppinger, on the nineteenth day of July, A. D. 1859, and the court being satisfied on the inspection thereof that the within patent is genuine, it is, therefore, ordered by the court, in conformity with the act of the legislature of California approved on the twenty-ninth of April, 1857, that the within patent be declared genuine, and that this order be indorsed thereon under the seal of the court.

Redwood City, April 16th, 1860.

[L. S.]

EDWARD NORTON,
Judge Twelfth District.

Attest: B. G. LATHROP, *Clerk.*

Recorded in San Mateo County recorder's office, April 17th, A. D. 1860, at 10 a. m., in Liber 1 of Patents, on pages 27 to 28, inclusive.

[L. S.] B. G. LATHROP,
County Recorder San Mateo County."

69 This was all the evidence in the cause, and thereupon the plaintiffs moved for judgment on the pleadings, stipulation, and evidence, which motion was resisted by the defendants, and, after argument of counsel, the court ordered judgment to be entered for the plaintiffs, to which rulings the defendants duly excepted at the time, and the court having entered a final decree in favor of the plaintiffs, the defendants appeal therefrom, and on which appeal will rely on the following as the grounds of error, to wit:

1st. That on the pleadings, stipulation, and proofs the defendants were entitled to judgment, and the plaintiffs' motion for judgment ought to have been overruled.

2d. That on the pleadings, stipulation, and proofs the defendants are in equity the owners of the premises in controversy, and the court should have entered a decree to that effect.

3d. That on the pleadings, stipulation, and proofs the plaintiffs are at most but trustees of the defendants, holding the legal title of the premises in controversy, for the use of the defendants, and the court should have so decreed.

4th. That on the pleadings, stipulation, and proofs the plaintiffs are not in equity entitled to the lands in contest, nor to the relief prayed for in the complaint, nor to any relief as against the defendants, and the court erred in entering a decree in their favor.

J. B. CROCKETT, *Attorney for Defendants.*

The foregoing statement is agreed to as a correct statement on appeal. San Francisco, 15th December, 1863.

J. B. CROCKETT,
Attorney for Defendants.
SIDNEY L. JOHNSON,
Attorney for Plaintiffs.

(Indorsed:) Twelfth district court. Arguello et als. vs. John Greer et als. Statement on appeal. Filed Dec. 21st, 1863. W'm Loewy, clerk, per W'm R. Satterlee, deputy clerk.

70 *Notice of appeal.*

In the district court of the twelfth judicial district of the State of California, in and for the city and county of San Francisco.

SOLEDAD ORTEGA DE ARGUELLO ET ALS. *vs.* JOHN GREER ET ALS. } Notice of appeal.

You will please take notice that the defendants in the above-entitled action do hereby appeal to the supreme court of this State, from the judgment and decree therein made and entered in the said district court, on the 16th day of November, A. D. 1863, in favor of said plaintiffs, against said defendants, and from the whole thereof.

Dated San Francisco, this 16th day of December, A. D. 1863.

Yours, etc., CROCKETT & CRITTENDEN,
Attorneys for Appellants.

To the clerk of the district court, and Sidney L. Johnson, esq., attorney for respondents.

(Indorsed:) Due service hereof admitted this 16th December, 1863. Sidney L. Johnson, attorney of plaintiffs. In the district court of the twelfth judicial district. Soledad Ortega de Arguello et als. vs. John Greer et als, Notice of appeal. Crockett & Crittenden, attorneys for appellants. Filed this 21st December, 1863. W'm Loewry, clerk, per W'm R. Satterlee, deputy clerk.

Stipulation.

In the district court of the twelfth judicial district in and for the city and county of San Francisco.

SOLEDAD ORTEGA DE ARGUELLO ET ALS. *vs.* JOHN GREER ET ALS. } Stipulation.

It is hereby stipulated that the foregoing shall constitute the transcript on appeal in the above-entitled cause; and it is admitted that the defendants have given the necessary undertaking on appeal.

SIDNEY L. JOHNSON,
Attorney of Respondents.

Dated San Francisco, December 30th, 1863.

CROCKETT & CRITTENDEN,
Attorneys for Appellants.

It is admitted the default against Dennis Martin was set aside on stipulation, and the cause is to be tried as if no default had been entered.

J. B. CROCKETT,
For Appellants.
SIDNEY L. JOHNSON,
For Respondents.

71 (Here follow maps marked Nos. 1 and 2, page 71.)

72 SOLEDAD ORTEGA DE ARGUELLO, JOSE Ramon Arguello, and S. M. Mezes *v.* JOHN GREER, MARIA LOUISA GREER, Manuela Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Dennis Martin.

By the court, CURRY, J.:

The plaintiffs, being in possession of certain real property described in the complaint, brought an action, as authorized by the two hundred and fifty-fourth section of the practice act, against the defendants as persons claiming some estate or interest therein, adverse to the plaintiffs, for the purpose of determining such adverse claim, estate, or interest.

The premises in controversy are situated in San Mateo County, and constitute, as claimed by the plaintiffs, a part of the "Rancho de las Pulgas" or the "Pulgas Rancho," as the same has been surveyed and patented under the authority of the United States government.

The answer of the defendant admits that at the time the action was commenced, and when the answer was filed, the plaintiffs were in
73 possession of the premises, and interposes as an equitable defense, and as ground for affirmative relief, the following facts:

First. That the plaintiffs' title is founded on a Mexican grant, confirmed by a decree of the Supreme Court, and that the same has been surveyed and patented.

Second. That the decree of confirmation does not embrace the land in controversy, but that by a mistake of the surveyor general and the Commissioner of the General Land Office, an erroneous survey was made, which improperly includes the disputed premises in violation of the decree of confirmation, and that the patent follows the erroneous survey, including the premises therein.

Third. That the defendants are the true owners of the same lands, under a grant from the Mexican government to Juan Coppinger, which grant has been finally confirmed by metes and bounds embracing such lands. In conclusion the defendants pray that their titles may be adjudged to be superior to that of plaintiffs, and that the plaintiffs be decreed to release the legal title which they acquired under their erroneous survey and patent.

The plaintiffs, by replication, controvert the material allegations of the affirmative matter contained in the answer, besides
74 pleading affirmatively matters in bar and estoppel to the facts on which the defendants rely for a judgment and decree in their form.

When the cause came on for trial the parties stipulated as to certain facts, upon which, and the pleadings, the plaintiffs moved for judgment. The court granted this motion, and rendered judgment for plaintiffs against the defendants, in accordance with the prayer of their complaint, from which the defendants have appealed.

The defendants maintain that they are in equity the owners of the lands in controversy, and that at most the plaintiffs are but trustees of the defendants, holding for their use the legal title of the premises, and they insist that the pleadings, stipulation and proofs in the case authorized and required a judgment and decree in their favor as prayed for in their answer, which was in the nature of a cross-bill in equity.

In order to avoid prolixity we shall, in the course of this opinion, refer only to such facts appearing in the record as may be necessary to a clear understanding of the case as connected with the legal questions to be determined.

75 In 1835 there was granted by the Mexican government to Jose Ramon Arguella, Luis Arguella, Maria Concepcion Arguella, and Maria Josefa Arguella, children of Luis Arguella, then deceased, a tract of land called "Las Pulgas," situate within the present county of San Mateo, the boundaries of which were specified in the grant in the following words: "On the south the creek of San Francisquito; on the north, that of San Mateo; on the east, the estuaries; and on the west, the "Canada de Raimundo." In a subsequent part of the grant are the words: "The tract of which mention is made is of four leagues of latitude and one of longitude." The grant contains no reservation of any excess of four squar leagues that might be within the locative calls of the description, to the nation for its uses, as was generally the case when it was intended to grant a particular quantity of land lying within limits of larger extent. In due time, after the organization of the board of commissioners appointed under the act of Congress of the United States, passed in March, 1851, entitled "An act to ascertain and settle the private land claims in the State of California," the claimants of the Las Pulgas, presented their petition to the board for the confirmation of their alleged title thereto. The board confirmed the
76 claim describing the lands substantially as in the grant, and add-

ing the words, "Said land being of the extent of four leagues in length and one in breadth, be the same more or less." From this decree the case was removed by appeal to the proper district court, where the claim was again confirmed, and then an appeal was taken by the parties respectively from the decree of the district court to the Supreme Court; that court, upon the final hearing of the cause, after expressing the opinion that the judgment of the district court was correct, pronounced judgment as follows: "It is adjudged that the said claim of the petitioners is valid as to that portion of the land described in the petition, which is bounded as follows, to wit: On the south by the arroyo or creek of San Francisquito; on the north by the creek of San Mateo; on the east by the esteros or waters of the bay of San Francisco; and on the west by the eastern borders of the valley known as the Canada de Raimundo, said land being of the extent of four leagues in length and one in breadth, be the same more or less; and it is, therefore, hereby decreed that the said land be, and the same is hereby, confirmed to them;" and then follows a designation of the proportions of the premises which each confirmee should have and hold under the confirmation; and then it is further decreed that "as to the portion of the premises described in said petition which is not included within the boundaries above mentioned, the claim of the petitioners is adjudged not to be valid." (Arguella et al. vs. United States, 18 How., 549.)

77

It should be observed here that the confirmees in their petition, presented to the board of land commissioners, asking for the confirmation of Las Pulgas, claimed that the tract of land granted contained twelve square leagues, including the valley called the Cañada de Raimundo; and hence that part of the decree declaring that "as to the portion of the premises described in said petition which is not included within the boundaries above mentioned, the claim of the petitioners is adjudged not to be valid," is to be understood as applying to the portion of the tract of land described in the petition lying without the boundaries specified by the decree.

After the final confirmation the land was surveyed by the government surveyor. This survey was approved, and in October, 1857, a patent in the usual form was issued to the confirmees describing the land as surveyed, and as described in the final decree of confirmation on the north, east, and south side; and on the west side the line is at the western base of the range of hills which bounds the Cañada de Raimundo or valley of Raimundo on the east. The area comprehended by the description of the survey and patent is about thirty-five thousand acres.

78

The defendants claim the western portion of the lands embraced in the Las Pulgas patent, under a grant made in August, 1840, by the Mexican government to Juan Coppinger, of the place known as the "Cañada de Raimundo," adjoining to and west of the Las Pulgas. The record shows that in July, 1839, Coppinger, by petition addressed to the prefect of the first district, sought to obtain a grant of a certain tract of land which he represented as "a small valley which lies in the sierra in the same place where there now is a small timber-cutting establishment, which place is about two & one-half leagues in length, & about three-quarters of a league in breadth at the utmost; said valley borders on the rancho of Donna Soledad Ortega & that of Maximo Martinez, and also on the sierra, at the extremity, as it appears from the accompanying sketch." The grant which was afterward made to Coppinger described the Cañada d Raimundo as "bordering on

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the west by the Sierra Morena; on the east by the Rancho de las Pulgas; on the south by that of Señor Maximo Martinez; & on the north with the lagoon." This grant had annexed to it certain conditions or specifications, one of which was, that "when the property shall have been confirmed to him, he shall solicit the proper magistrate to give him judicial possession thereof." Another was, that "the land of which donation is made is that between the boundaries shown by the sketch he has presented; the judge who shall give possession of it shall have it measured according to ordinance, specifying the amount of sitios it contains." There is no provision in this grant reserving any surplus to the nation for its uses.

Some time prior to the year 1850 Juan Coppinger died, leaving him surviving an infant child, Manuela Coppinger, & a widow, Maria Louisa, as his heirs at law. The widow afterward became & now is the
80 wife of the defendant John Greer. Greer & his wife, & the said Manuela, presented their petition to the board of land commissioners, praying that the title to the Cañada de Raimundo might be confirmed to the said Maria Louisa & Manuela, as the heirs at law of Juan Coppinger, deceased. This petition was granted by decree of the board, in which the land was described as in the original grant. On appeal to the district court the claim of the petitioners was again confirmed, describing the land as it was described in the decree of the board. This decree became final, & the Cañada de Raimundo was officially surveyed. The survey was approved, & in July, 1859, a patent was issued to the confirmees for the land as surveyed, comprehending within its limits about twelve thousand five hundred acres. The eastern line of the Cañada de Raimundo Ranch, as described by this survey & patent, coincided with the western line of the survey & patent of the Las Pulgas. But the defendants alleged that they refused to accept & receive the patent issued in July, 1859, & refuse to be concluded by it or by that of the Las Pulgas.

81 The land in controversey is bounded on the south by the San Francisquito Creek; on the west by a line joining the western boundary of the Las Pulgas, as described in the patent; on the north by the San Mateo Creek; and on the east by a line running from the San Mateo Creek to the San Francisquito Creek, at a distance of one league westward from the estuaries of the bay of San Francisco. The defendants maintain that the Las Pulgas patent, to the extent that it embraces the land here described, was not authorized by the original grant nor by the final confirmation of it by the Supreme Court; & also that the same land is embraced in the tract granted to Juan Coppinger, & in the decree of confirmation to his heirs; & that the survey & patent including this land was the result of a mistake on the part of the government surveyor & the Commissioners of the General Land Office, & this mistake, it is contended, is established by reference to the original grants referred to, & the final decrees of confirmation rendered by the tribunals of the United States.

82 The defendants claim that they come within the category of persons denominated third persons in the fifteenth section of the act of Congress of 1851, & that the interest which they have under the original grant to Coppinger is of a quality that stands unaffected by the survey & patent of the Las Pulgas, & that they may impeach this patent by their answer & the proofs existing in the case, in so far as it embraces the land in dispute.

The section of the act here referred to reads as follows: "And be it further enacted that the final decrees rendered by the said commissiou-

ers, or by the district or Supreme Court of the United States, or any patent be issued under this act, shall be conclusive between the United States & the said claimants only, & shall not affect the interests of third persons."

The first case passed upon by the supreme court of this State, involving a construction of the section of the act of Congress quoted, & determining the character of persons & the interests that remained unaffected by a confirmation or patent was the case of Waterman v. Smith, (13 Cal., 373.)

83 In that case, which was an action of ejectment, Waterman claimed to recover upon a Mexican grant made to Francisco Solano, which had ripened into a perfect title by final confirmation & an approved survey & patent. Smith, the defendant, interposed as a defense the grant made by the Mexican government to Jose Francisco Armijo, under which he derived his supposed right to the premises demanded, & which he relied on as the paramount title.

The grants made to Solano & Armijo, respectively, embraced within their general boundaries more land than the quantity designated as granted, & overlapped each other, including in each the land in dispute, & both grants were regarded by the court as inchoate & imperfect. The court, in speaking of the effect of the patent which the plaintiff introduced in evidence in that case, said, "The patent is conclusive evidence of the right of the patentee to the land described therein, not only between himself & the United States, but as between himself & a third person who has not a superior title from a source of paramount proprietorship," (p. 419;) & of the third persons named in the

84 act, the court said, "The third persons against whose interests by the fifteenth section of the act of 1851 the final confirmation & patent are not conclusive are those whose title is at the time such as to enable them to resist successfully any action of the government in respect to it," (page 420.) In Biddle Boggs v. Merced Mining Company, (14 Cal., 362,) the court reitterated this language employed in Waterman v. Smith; & in Leese v. Clark, (20 Cal., 425,) in reference to the same subject, the court say, "The term 'third persons' refers not to all persons other than the United States & the claimants, but to those who hold independent titles arising previous to the acquisition of the country. The latter class are not bound by the decree & patent, for they do not hold in subordination to the action of the government, nor by any title subsequent, but by title arising anterior to the conquest."

In Minturn v. Brower, (24 Cal., 644,) this court, after citing the fifteenth section of the act of 1857, say, "If such only can be the effect of decrees & patents, & the interests of third persons are not to be af-

85 fected thereby, then who are these third persons, & what is the character of the interests that stand unaffected? Third persons must be regarded to be all persons who were not parties to the proceeding before the land commissioner, or standing in such relation with those who were parties thereto as to become affected & bound as privies; & the interests of third persons that remain unaffected by the final confirmation & patent are those subsisting in perfect titles derived from a source of paramount proprietorship, which could be used in resisting successfully any action of the government respecting them."

These cases must be regarded as having settled the construction, so far as the courts of this State are concerned, to be given to this section of the act of Congress. If Coppinger's heirs & successors in interest have an interest in the land in controversy of a character that could be used in resisting successfully any action of the government respect-

ing it, then they have a status in this case which entitles them to the relief they have sought; otherwise they are not in a position to
86 complain of the action of the government on whose bounty & justice they have depended for the confirmation of their claim to the Cañada de Raimundo.

It does not appear that the land granted to Coppinger was ever measured by the proper officer, as required by one of the conditions of the grant, nor that judicial possession of it was given to the grantee, hence it did not become definitively complete & valid under the former government. (Greer v. Mezez, 24 How., 274; United States v. Reading, 18 How., 7, 8; Leese v. Clark, 18 Cal., 574; Rodriguez v. Comstock 24 Cal., 87, 88.)

The only interest which Coppinger had in the land mentioned in the grant at the time California was ceded to [to] the United States, was what is denominated an inchoate or imperfect title, as contradistinguished from a perfect title. Before then the legal title to the land was in the Mexican nation, & upon the cession of the country the same passed to the United States, charged with the equitable interest of Coppinger therein, which the government of the United States was in good faith bound to protect on such just terms as the Congress
87 of the nation might devise & prescribe. The protection promised by the treaty of Guadalupe Hidalgo, & which without an express stipulation it would have been the duty of the government to afford, it was the design of the act of Congress to effectuate by providing the mode & means for the confirmation of such inchoate titles to lands as were equitable & just, & for investing those entitled to the same with indefeasible titles thereto. But to secure the speedy settlement of such land claims, the act required their presentation within a specified period to the tribunal established for the purpose, providing that if they were not so presented, such lands should, from the lapse of limitation, be deemed, held, & considered as part of the public domain. While the claimants of mere inchoate titles to lands had the right to demand of the government the fulfillment of its obligations, they could not dictate the mode, nor the exact measure of its performance. Then, when in any given case the government has acted in the discharge of its duty, & has granted to a claimant the land to which it was deemed under all the circumstances considered he was equitably entitled, he is
88 in no position to demand more, nor otherwise than is allotted to him by the granting power.

The Coppinger claim was one requiring confirmation & segregation to render it a perfect title. The right to determine its validity, & give it a precise location, belonged to the former government until the country was transferred to the United States. With that event the right passed to the new government, & has been exercised in discharge of its obligation to the heirs of, & successors in interest to, the original grantee. If we may, after having ascertained the nature & quality of the interest of Coppinger, look into the espedientes of the Las Pulgas & Cañada de Raimundo, & the evidence properly connected therewith in order to discover the intention of the granting authority, as to the quantity of land to be granted in each case, than what land was granted, or intended to be granted, to the respective grantees?

In his petition to the prefect, Coppinger represented the land which he desired to obtain as a small valley, lying in the Sierra, where
89 there was a timber-cutting establishment, & that such valley was at the utmost in extent about two & a half leagues long & three-quarters of a league broad, & that it bordered on the Rancho Donna

Soledad Ortega, & that of Maximo Martinez, & also on the sierra, at the extremity, as appeared from a map or sketch which was submitted with his petition. The grant made to him described the property as "the place known as Cañada de Raimundo, bordering on the west by the Sierra Morena; on the east by the Rancho d las Pulgas; on the south by that of Senor Maximo Martinez; & on the north with the lagoon." In the third specification or condition contained in this document, it is declared that "the land of which donation is made is that between the boundaries shown by the sketch he has presented." This sketch or map represents the valley, or Cañada de Raimundo, in the midst of the hills by which it is bounded on the eastern and western sides; & at its northern extremity the lagoon is distinctly indicated. It is insisted on the part of the defendants that the boundaries of
90 the valley exhibited on the map passed to the grantee by the terms of the grant, as well as the valley itself; & this position is sought to be strengthened by the fact that there was no reservation in the grant of any surplus. We think the petition of Coppinger, & the grant itself, with the map referred to, is a refutation of this position of the defendants. The petition describes the land solicited as a small valley, not exceeding certain specified dimensions, & names its surroundings. The grant calls it by the name by which it was known, & specifies by what it is bordered; & referring to the diseño or sketch presented with the petition, declares the land donated, that is, the "Cañada de Raimundo," to be that between the boundaries shown by the sketch.

As to the absence in the grant of a reservation of any surplus, as was used in grants of a designated quantity to be selected & set apart by the government authority to the grantee, we are of opinion that this circumstance in no just view aids the defendants' construction of
91 the effect of the grant. The petition had represented the valley of less area than two square leagues, & acting upon it & the report of the prefect, the governor issued the grant to Coppinger for the place known as the "Cañada de Raimundo," providing that the judge who should give him the possession of it should have it measured according to ordinance, & should specify the quantity of sitios or square leagues contained in it. It is to be presumed that no reservation of any surplus was made, because the governor was aware, from "having previously taken the necessary steps & investigations on the subject," as he says in the grant, that the valley did not exceed in extent the amount which the grantee might receive under the Mexican colonization law of 1824, & therefore no such reservation was necessary. The intention, as appears from these documents, was to grant the valley or Cañada de Raimunda and its appurtenances only.

It is maintained that the survey & patent on which the plaintiffs' rely are not authorized by the confirmation in the Las Pulgas
92 case; that the survey was made & approved under a misapprehension as to the effect of the decree of confirmation; & that the patent following the same is involved in the consequences of the mistake which was the result of such misapprehension. In the original grant made to the Arguellos, the western limit of the Las Pulgas (which is the disputed boundary in this case) was the Cañada de Raimundo. The four sides of the tract were defined with particularity by natural objects, & no surplus lands remained to be reserved. The manifest intent, as appears upon the face of the titulo, was to grant to the children of Luis Arguello, deceased, the land described. The confirmation of the grant by the government of the United States described the land by the same natural objects as those contained in the original con-

cession, but defined with more precision its western boundary as at the eastern borders of the valley known as the Cañada de Raimundo.

93 The words in the final decree following the description by boundaries, "said land being of the extent of four leagues in length & one in breadth, be the same more or less," is not a limitation of the quantity confirmed. If it had been intended to limit the quantity to four square leagues of land, in length four leagues & in breadth one, lying adjoining the estuaries, it is to be presumed the court would have so declared in express terms; but, as if doubtful as to its extent, & to guard against a constructive limitation as to quantity, the words "be the same more or less" seem to have been employed.

The rule is well settled that where land is described in a deed by permanent objects as its boundaries, & also by courses & distances with a mention of the quantity, the description by courses, distances, & quantity must yield to the boundaries if they do not agree. (Stanley v. Green, 12 Cal., 164, & the cases there cited; 17 Mass., 207; 17 Pick., 357; 19 Pick., 445.)

94 This rule rests upon solid reasons, while there may be a mistake respecting the courses & distances as to the boundaries of a tract of land, or as to the quantity of acres or leagues it contains, there can be none when its extent is defined by permanent natural monuments.

Admitting this construction of the language of the description contained in the original grant of the Las Pulgas, & in the decree of confirmation, to be correct, the defendants claim that the valley of the Cañada de Raimundo, by fair construction, comprehends the slope of the hills forming its eastern boundary, & that as the western limit of the Las Pulgas was declared to be the Cañada de Raimundo, the line between the two ranchos was at the top of these hills. Whatever force there might be in this position of the defendants, if the eastern line of the Cañada d Raimundo were not already established by government authority, is overcome in the present state of things by the fact that the government, in a proceeding to which the defendants, or those under whom they claim, were parties, has determined the eastern boundary of the Cañada de Raimundo to be at the base of the hills on the

95 eastern border of the valley. It does not appear that any objection was made to the government survey fixing this boundary so as to make it coincide with the western boundary line of the Las Pulgas, as surveyed & patented. If they did so object at the proper time, & before the proper authority, their objections did not prevail. The survey of the Cañada de Raimundo was approved & confirmed on the part of the government, as appears by the patent issued; & this must be regarded as conclusive upon the defendants who were parties or privies to the proceeding, & became bound by this action of the government.

The views which we entertain & have herein expressed render it unnecessary to consider other points made in the case, & which have been ably argued by the counsel of the respective parties. We are of the opinion the judgment should be affirmed.

Judgment affirmed.

96 SOLEDAD ORTEGA DE ARGUELLO ET AL., respondents,
vs.
JOHN GREER ET AL., APPELLANTS.

On appeal from the district court of the twelfth judicial district in & for the city & county of San Francisco.

And now at this day, cause being called, & having been heretofore sub-

mitted & taken under advisement by the court, & all & singular the law & premises being by the court here seen, heard, understood, & fully considered, the opinion of the court herein is delivered by Curry, justice, full bench concurring, to the effect that the judgment of the court below be affirmed.

Whereupon it is now considered, ordered, adjudged, & decreed, by the court here, that the judgment of the district court of the twelfth judicial district, in & for the city & county of San Francisco, in the above-entitled cause be, and the same is hereby, affirmed, with costs.

December 6th, 1869.

97 In the supreme court of the State of California.

SOLEDAD ORTEGA DE ARGUELLO ET ALS.
vs.
JOHN GREER ET ALS.

I, George Seckel, clerk of the supreme court of the State of California, do hereby certify that the foregoing contains the original writ of error to the Supreme Court of the United States, a copy whereof has been lodged in my office in pursuance of the statute in such case made and provided for the defendant in error, the original bond in error duly approved by Hon. Lorenzo Sawyer, chief justice of the Supreme Court of the State of California, the citation, copies of the original transcript on appeal to this court, the opinion of the court, and the judgment rendered thereon.

Witness my hand and the seal of said court affixed at my office, this 17th day of December, 1869.

[SEAL.] GEO. SECKEL,
Clerk of the Supreme Court of the State of California.

(Indorsement on cover:) No. 420. John Greer, & Maria Louisa Greer, his wife, Manuella Coppinger, James Morrison, Joseph B. Crockett, Alexander P. Crittenden, and Dennis Martin, plaintiff's in error, vs. Soledad Ortega de Arguello, Jose Ramon Arguelo, and S. M. Mezes. California supreme court.

Filed 17th January, 1870.